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Contents

I *Information*

Court of Auditors

Annual report concerning the financial year 1977 accompanied by the replies of the institutions

1

This issue closes the C series for 1978.

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I

(Information)

COURT OF AUDITORS



ANNUAL REPORT

concerning the financial year 1977

accompanied by

the replies of the institutions

transmitted to

the authorities responsible for giving discharge

and to

the other institutions

(on 30 November 1978)

(in accordance with Article 84 of the Financial Regulation of 21 December 1977)

ANNEX VI

THE ECONOMIC AND SOCIAL COMMITTEE

Replies to the comments of the
Court of Auditors concerning the financial year 1977*Paragraph 1.24 (ii) — Lack of uniformity in u.a. conversions*

We would point out that the Economic and Social Committee applies the official budget rates (see Article 10, paragraph 1 of the Financial Regulation — 1 May 1973 in force until 31 December 1977) for bank or cash transactions in currencies other than the Belgian franc. The daily exchange rate is used for the reimbursement in Belgian francs of sums in foreign currency (meeting expenses of members, mission expenses).

Paragraph 8.4 et seq. — Persons treated as dependent children

To prevent irregularities the Committee has always made a scrupulous, minute examination of the information supplied in connection with such cases; in particular concrete evidence of regular payments is always requested.

Nevertheless, it seems to us that the arrangements for granting the allowance ought to be redefined and that the best way of ensuring more equitable treatment would be to define precisely those cases in which the maintenance obligation constitutes entitlement to the allowance.

Chapter 9 — (operational expenditure)

Paragraph 9.3

Implementation of the arrangements provided for in Article 106 of the Financial Regulation of 21 December 1977 would certainly ease the situation. It is therefore to be hoped that the competent authorities will take the necessary steps to fill this gap in the law.

Paragraph 9.4

The implementation of uniform procedures would probably tighten up application of the rules.

We were at pains to bring the Court's comments on this matter to the attention of the department concerned, stressing the usefulness of reciprocal inter-institutional information.

Paragraph 9.5

Budgetary control — even budgetary allocation — would be much easier if all the institutions were to apply uniform criteria for the various appropriations. This presupposes however that all the institutions have similar budgetary strategies which is not currently the case.

Paragraphs 9.11 to 9.16 — Telephone calls

The ESC has gone to some lengths to prevent abuse of the telephone system, as is amply illustrated by Table 35.

We would nevertheless point out that telex charges account for 5.8 % of Item 2311, and that apart from staff, the 144 ESC members also use the Committee's telephone system. This expenditure, moreover, relates solely to official calls since the cost of personal trunk and international calls is recouped from Committee members, staff and visitors, (10 787 u.a. in 1977).

Paragraph 9.15

The Committee immediately took the necessary steps and open lines were fitted with security systems.

Paragraphs 9.17 to 9.22 — Study contracts

Particular note has been taken of the Court of Auditors' comments on study contracts. The Committee is not often obliged to commission studies by independent experts, but when it is, it is concerned to comply with the rules applicable in such cases.

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INTRODUCTION

Presentation of the report

1. This first Annual Report of the European Court of Auditors concerns the accounts for the financial year 1977 for which it has the responsibility of audit. It is divided into two parts.

Part I

2. The first part of the Report deals with the execution of the general budget of the Communities. This covers the budgets of the European Parliament, the Council, the Commission, the Court of Justice, the Economic and Social Committee and the Office for Official Publications. Part I also includes summaries of the reports on the accounts of the Euratom Supply Agency, the European Schools, the Foundation for the Improvement of Living and Working Conditions and the European Centre for the Development of Vocational Training which have been sent to the respective governing bodies in accordance with the appropriate regulations. These latter summary reports are included in order to give a complete picture of the work of the Court, even though they are subject to different discharge procedures.

3. The budget accounts covered by this report include total expenditure of 11 270 631 659 u.a. while the total of the synthetic balance sheet of the Communities amounts to 4 967 805 452 u.a.

Part II

4. The second part of the Report concerns the management of the European Development Funds. The Commission provides the management of the accounts outside the budgetary framework.

The observations of the Court

5. In accordance with the terms of the relevant Financial Regulation the Court sent its observations on the accounts for 1977 to the institutions by 15 July 1978. These observations took the form of a

draft of this Annual Report. The observations included in Parts I and II were sent to the Commission. Those included in Part I — Chapters 1, 8 and 9 were sent also to the European Parliament, the Council, the Court of Justice and the Economic and Social Committee.

6. Part I — Chapters 1, 8 and 9 deal with matters of administration and of general accountancy, with which all the institutions are concerned. The Court of Auditors considered that it was preferable and more helpful to the discharge authority to deal with such matters by way of discussion of general issues, rather than by separate commentary on the situation in each institution. This appeared to be the best way of bringing out differences between the various institutions' practices on common problems. The Commission and the Council have indicated that this policy is not universally approved.

7. The replies of all the institutions to whom the Court's observations were sent were received by 31 October, which is the date laid down in the Financial Regulation. The Court would like to express its appreciation of the cooperation of the institutions in this matter, since it has made possible the production of this present Report by the due date of 30 November.

8. The replies of the institutions are set out in full in Annexes II to VI of this Report. In order to help the discharge authority and other readers in their examination of the Report, the Court has also interposed certain parts of these replies into the text of the various Chapters and in some instances has offered further comments. By this means, readers should be able better to appreciate the issues involved at these points.

9. The view of the Commission is that the Court has no authority to comment on its Replies. The Commission has said:

With regard to the publication of the Court of Auditor's Report, the Treaty of 22 July

1975, in particular paragraph 4 of Article 78f and Article 78g (ECSC), paragraph 4 of Article 206a and Article 206b (EEC) and paragraph 4 of Article 180a and Article 180b (EAEC) stipulates that the Report must be accompanied by replies from the Community institutions to the comments made by the Court of Auditors. In the Commission's opinion, this rules out any counter-reply by the Court of Auditors to the institutions' replies for such counter-reply constitutes a fresh comment. Compliance with the Treaty requires the Court of Auditors to permit institutions to reply to it or that it should cease to include counter-replies in the Annual Report. The Court of Auditors cannot set itself up as judge of the replies. This is for Parliament alone, as part of the process of giving discharge.

The Court of Auditors does not accept this view.

10. In the course of its replies to the Court's observations, the Commission refers on a number of occasions to a difference of approach between the

Court and the former Audit Board, with the implication that the Court should refrain from raising issues on which the Board had not commented. The Court, while paying tribute to the sterling work of its predecessor, cannot be bound by what the Board may or may not have said. It would indeed be surprising if the Court, constituted in a different way and given greater powers, did not take fresh views on a number of matters.

11. Annex I to this Report comprises a statistical survey, including diagrams, which illustrates aspects of the financial affairs of the Communities. The first part deals with the general budget of the Communities. After a general historical survey covering the years 1958 to 1977, the situation in this last year, which is the year forming the basis of this Annual Report, is shown graphically in more detail. The second part of Annex I is made up of various Tables concerning the European Development Funds, which form the subject of Part II of the Report.

12. It is the intention of the Court to publish similar Tables in future years illustrating other aspects of the financial affairs of the Communities.

Part I

Chapter 1 — General comments

THE COURT OF AUDITORS

1.1 In this first Annual Report of the European Court of Auditors it would be useful to give an account of the origins of the Court, its responsibilities and powers and the way it has organized its work.

1.2 The Court was set up under the Treaty of 22 July 1975 which amended certain financial provisions of the Treaties establishing the European Communities, etc. The Treaty provides that the Court shall consist of nine members who shall be appointed by the Council, acting unanimously after consulting the Parliament.

RESPONSIBILITIES AND POWERS

1.3 In accordance with the provisions of the Treaty, the Court has replaced the two former audit bodies of the Communities: the Audit Board and the office of the ECSC Auditor. The setting up of the Court is linked to another provision in the July 1975 Treaty, namely the investing of Parliament with the sole right of discharging the Commission of its responsibility as regards the accounts of the Communities (previously Council and Parliament exercised this power jointly). It was felt that this transfer of responsibility from Council to Parliament should be accompanied by an intensification of control and audit and that this could best be achieved by the creation of a new instrument, the Court of Auditors.

1.4 The Treaty, as amplified by the General Financial Regulation of the Communities, lays down the responsibilities and powers of the Court. These may be summarized as follows:

- to examine the accounts of all revenue and expenditure of the Communities and also of bodies set up by the Communities in so far as the relevant constituent instrument does not preclude such examination;
- to examine whether all revenue has been received and all expenditure incurred in a lawful and regular manner and whether the financial management has been sound;
- to audit the revenue and expenditure of the Communities including, if necessary, on-the-spot audits in the Communities' institutions and in the Member States. To this end the Court is to liaise with the responsible audit bodies or departments in the Member States;
- to obtain from the institutions or the national bodies, on request, any document or information necessary to carry out its task. The Court considers that under the Treaty it alone can be the judge of what document or information is necessary;
- to draw up an Annual Report after the close of each financial year and to ensure that this Report, together with the replies of the institutions, is published in the Official Journal;
- to send copies of the Annual Report to the institutions;
- on its own initiative to submit observations on specific questions;
- to deliver opinions at the request of any of the institutions of the Communities;
- to assist Parliament and Council in exercising their powers of control over the implementation of the budget;
- to express opinions on proposals from the Commission concerning:
 - (a) financial regulations, especially on budgetary and auditing matters;
 - (b) the methods whereby own resources are made available to the Communities;
 - (c) the rules concerning the responsibilities of authorizing and accounting officers and inspection arrangements.

1.5 The principal distinctions between the Court and its predecessors are that the Court enjoys quasi-institutional status, its members are full-time, it has enhanced powers especially as regards the auditing of all Community income and expenditure and accounts (whether budgetized or not), it may start its work immediately expenditure has been committed, i.e. it need not wait until the accounts are closed, it is entitled to carry out on-the-spot audits in the Member States on its own initiative, it can make observations at any time on specific questions of its own choosing, it gives opinions at the request of any of the institutions, it gives opinions on financial legislation and it publishes its reports in the Official Journal.

SOUNDNESS OF THE FINANCIAL MANAGEMENT

1.6 It is clearly laid down in the Treaties that the responsibility of the Court is not limited to the examination of the legality and regularity of the accounts which it audits. That responsibility extends also to making an assessment of financial management. The Treaties do not define that term and it is unlikely that a precise definition will emerge, at least until the Court has been operating for some time. At the present stage, however, it appears to the Court that it has been asked not only to assess the financial soundness of the operations actually carried out to implement declared Community policy, but also, *inter alia*, whether the means employed to do so were the best in the sense of being the most economical and efficient.

Reply of the Commission

The Commission has made the following reply to the comments made by Court in paragraphs 1.1 to 1.6:

The Commission is fully aware of the scope and importance of the powers of the Court of Auditors under the Treaty of 22 July 1975 and is prepared to cooperate closely with it. With regard to the supply of documents and information, the Commission is prepared as it has shown on a number of occasions to listen with an open mind to any specific request. The Treaty of 22 July 1975 restricts such supply of documents and information to that necessary to the fulfilment of the tasks of the Court of Auditors. This is an objective condition open to interpretation by all the Community institutions and, in the last resort, to a ruling by the Court of Justice.

THE ORGANIZATION OF THE WORK

1.7 The setting up of the Court was delayed owing to the need for the July 1975 Treaty to be ratified by each of the Member States. Following completion of this process, the nine members were appointed and were sworn in before the European Court of Justice on 25 October 1977.

1.8 The Court drew up the rules for its internal procedures, including those for the election of its President, Mr Michael N. Murphy.

1.9 Setting up the organization necessary to discharge the responsibilities laid down on the Court and recruiting the staff needed to carry out those duties were the most urgent tasks which faced the members on taking up office.

1.10 As regards organization, two different categories of work were identified: horizontal tasks, i.e. work concerning the domestic arrangements within the Court, e.g. personnel administration, the work programme and so forth, and vertical tasks, i.e. the division of the actual work of audit between the members.

1.11 As regards staff, no posts were allocated to the Court in 1977 although it was able to call on the services of the former employees of the Audit Board (25) and of the ECSC Auditor (5). For 1978 the Court has been awarded 140 permanent posts and 24 temporary posts.

TIMETABLE FOR THE PRESENTATION OF THE ANNUAL REPORT

1.12 The July 1975 Treaty, as amplified by Articles 73 to 85 of the General Financial Regulation of 21 December 1977, lays down a strict timetable for the presentation of the Annual Report. It is as follows:

— by 1 June:

the Commission must forward the revenue and expenditure account, the financial analysis and the balance sheet to Parliament, the Council and the Court of Auditors;

— by 15 July:

the Court of Auditors must transmit to the Commission and the institutions concerned any comments which, in its opinion, should appear in its Annual Report on the basis of the documents which the Commission must forward by 1 June and on the audits it carries out;

— by 31 October:

each institution must address its reply to the Court;

— by 30 November:

the Court must transmit to the authorities responsible for giving the discharge and to the other institutions the Annual Report accompanied by the replies. It has to ensure that these are published in the Official Journal.

1.13 This timetable poses problems for the Court in two respects. First, the institutions of the Communities have 5 months (to 1 June) in which to draw up their accounts, but the Court of Auditors must produce its comments within 1½ months (i.e. by 15 July). Second, the institutions have until 31 October (3½ months) in which to make their replies while the Court has only until 30 November (1 month) in which to draw up its Report in the light of those replies. There will be general agreement with the proposition that the Annual Report, plus the replies of the institutions, should be ready 11 months after the close of the financial year in question. The Court accepts that 30 November is the latest reasonable date for providing the discharge authorities with the material they need. But it is hard to reconcile the earlier deadlines in the present timetable, which are weighted so heavily against the Court, with the expressed desire of the institutions for intensified auditing in the Communities. This matter is also dealt with in Chapter 2 (paragraph 2.3 *et seq.*).

Reply of the Commission

The Commission has made the following reply to the comments made by the Court in paragraphs 1.12 and 1.13:

If the Court of Auditors considers that the time allowed it to formulate its remarks is too short, the Commission — for its part — would reiterate that it has no more than two months to prepare its accounts, since many important data (EAGGF Guarantee Section) are not available until after 31 March.

THE REPORT ON THE 1977 ACCOUNTS

1.14 The problems arising from the timetable were made worse for the audit of the 1977 accounts because of the shortage of staff. The person reading this report at the end of 1978 or the beginning of 1979 might assume that, despite the exigencies of the timetable, the Court of Auditors should have had no problems in producing its Annual Report because it had been accorded 164 staff compared with the 30 staff who served its predecessors (see paragraph 1.11 above). Such an assumption would be wrong. The groundwork on which the Annual Report on a financial year is based falls into two parts: first, the work done during the financial year in question and second, the checking of the accounts, etc. presented by 1 June in the following year. For 1977, the Court had to depend almost entirely on the services of the staff of its predecessors because the recruitment of the audit staff granted to it in the 1978 budget was not completed until July 1978, which is a short period by Community standards. Since the draft Report had to be forwarded to the institutions by 15 July, it was therefore only during the very final stages of the preparation of the observations on which this Report is based that any of the new recruits to the Court could contribute to its work. Indeed a fair proportion took up duty only after the observations were drafted.

1.15 The Court must place on record its appreciation of the work done by the staff of its predecessors, most of whom have now transferred to the Court. In spite of the long drawn out uncertainty about their future (the demise of the previous audit bodies having been settled in July 1975), and the considerable domestic upheaval involved in their transfer from Brussels to Luxembourg, they have enabled this Report to be written. But some of them had to be switched to the imperative horizontal tasks involved in setting up the new organization, recruiting the new staff, examining working methods and establishing links with the institutions and the Member States. All of this work was essential, but because of the acute shortage of manpower to carry out the audit work (about 20 staff were directly employed on audit), the Court has not been able to examine the 1977 accounts with the care and the intensity which it fully intends to adopt in the future. In particular, it has simply not been possible to undertake anything more than a handful of on-the-spots audits, although these will become one of the most important features of the Court's work. In view of these circumstances, the Court reserves the right, irrespective of the discharge procedure, to make any further comments on the 1977 accounts which may seem appropriate and necessary during the course of its future work.

FRAUD

1.16 The detection of fraud was widely discussed in connection with the establishment of the Court of Auditors and it is appropriate that the Court, in its first Annual Report, should comment on this matter.

1.17 We should be clear what is meant by fraud. It has been defined as criminal deception, the use of false representations to gain an unjust advantage. In the Community context it is the deliberate misappropriation of money or goods, inevitably involving breaking the law or the relevant rules and instructions of the organization concerned. It is necessary to distinguish fraud in this sense from actions designed to exploit loopholes in existing legislation. These, although they may result in material benefits which were not intended by the legislators, cannot be considered to constitute fraud. Indeed they may be carried on openly, whereas it is the nature of fraud to be secret. In any such cases where the existing law contains loopholes or results in exploitation which is thought to be undesirable, it may be necessary to revise the law to ensure that its original purpose is achieved. But actions which remain within the law cannot be considered to be fraudulent.

1.18 It is the responsibility of the administration of any organization to draw up financial statements which show a true record of transactions undertaken and to set up and operate a sound system of financial control which will assist in achieving this aim and in reducing the likelihood of fraud. Fraud may be perpetrated on an organization either by its employees or by third parties. Internal fraud usually poses fewer problems for the organization than fraud by third parties. The system of financial control can often be devised to identify clearly a member of the staff who has practised fraud. This itself is an effective deterrent and thus reduces the risk from this source. With third parties such deterrent is more difficult to devise and the risk of loss through this form of fraud is thus more serious.

1.19 In order to assist in the application of these general principles to the Communities, the Court of Auditors will, in the course of its work, be making recommendations to the institutions to improve the

efficacy of the various systems of financial control. This will contribute to the effort to minimize the possibility of fraud, particularly, for the reason stated above, from third parties.

1.20 It is in this way that the Court can most effectively contribute to the task of preventing fraud in Community affairs. But the problems involved in detecting fraud should not be underestimated. Although the conduct of normal audit procedures may indicate weaknesses in financial control which could give rise to fraudulent practices and may reveal evidence of actual fraud it is not possible to guarantee that all fraud will be revealed by audit examination. An independent auditor may apply tests to the documents presented to him to determine whether they are genuine or false but this must necessarily be on a selective basis because of the sheer volume of the documents involved.

1.21 It must also be remembered that in the Communities certain items of income and expenditure such as own and EAGGF expenditure are accounted for under the control of Member States and are in some cases also subject to audit by their respective national audit organizations with whom the Court intends to liaise closely as provided for in the Treaty.

Reply of the Commission

The Commission has made the following reply to the comments made by the Court in paragraphs 1.16 to 1.21:

The Court of Auditors devotes much of its attention to the problem of preventing fraud prejudicial to Community finances. The Commission understands that the Court wishes to improve the efficacy of the various systems of control operated not only within Community institutions but also within all national paying agencies which are variously involved in the implementation of Community policies. The Commission is always open to suggestions in this area and to any other ideas which might help stamp out fraudulent practices perpetrated while Community policies are being carried out.

UNITS OF ACCOUNT AND RATES OF EXCHANGE

1.22 The accounts covered by this report are expressed in budget units of account (u.a.) with the exception of those of the European Development Fund, which are expressed in European units of account (EUA), and those of the European Schools, which are expressed in Belgian francs.

Budget unit of account

- (i) The u.a. is based on the fixed amount of 0.88867088 grams of gold, the last parity of the US dollar which was declared to the International Monetary Fund (IMF) up to 1971. National currencies of Member States are translated into u.a. on the basis of the fixed, gold-based parities declared by governments to the IMF. Although substantial international currency fluctuations have taken place in the past the parity of the currency of Member States to the u.a. has not been changed. The parity of the currency of most Member States to the u.a. therefore differs significantly from the market rates of exchange at 31 December 1977. The following rates of exchange have been applied in drawing up the 1977 accounts:

1 u.a. =

DKR	7.500
DM	3.660
BFR/LFR	50 000
FF	5.544
£Irl.	0.417
LIT	625.000
£St.	0.417
HFL	3.620

Green rates of exchange

- (ii) So called green rates of exchange (see Table 1) are used for implementation of the agricultural policy of the Communities to translate official farm prices, intervention payments and other aids denominated in u.a. into national currencies. Income and expenditure of Member States which form part of the Guarantee operations of the EAGGF and are expressed in national currencies are translated in the accounts into u.a. at green rates of exchange. The difference arising from the application of green rates instead of budget rates of exchange is stated separately in Account 790 'gain or loss arising on utilization of different rates of exchange'.

Table 1 — Principal green rates of exchange applied in 1977

1 u.a. at	1 January to 16 January 1977	17 January to 31 March 1977	1 April to 31 April 1977	1 May to 15 September 1977	16 September to 31 December 1977
DKR	7.894		8.138 ⁽¹⁾		8.566
DM	3.481			3.413	
BFL/LFR	49.349				
FF	5.633		5.780		
£Irl.	0.638	0.693	0.740		
LIT	963.000		1 030.000		
£St.	0.570			0.587	
HFL	3.403				

⁽¹⁾ Valid from 6 April 1977.

European unit of account

- (iii) The EUA is already applied in the accounts of the European Development Fund, the European Coal and Steel Community and the European Investment Bank and has been used from 1 January 1978 for the general budget of the

Communities. The EUA is based on a basket of the currencies of the Member States and its value expressed in a particular currency is equal to the sum of the stipulated amounts of currency translated at the daily rate of exchange. The value the EUA therefore fluctuates daily, reflecting the relative movement between

currencies determined by market forces. The amount of each currency included in the basket on which the EUA is based is as follows:

DKR	0.217
DM	0.828
BFR	3.66
LFR	0.14
FF	1.15
£Irl.	0.00759
LIT	109.00
£St	0.0885
HFL	0.286

The following rates of exchange, stated to three decimal places, have been used in drawing up the 1977 accounts and the comparative figures for 1976.

	1 EUA at 31 December 1976 =	1 EUA at 31 December 1977 =
DKR	6.540	7.080
DM	2.669	2.580
BFR/LFR	40.660	40.353
FF	5.617	5.761
£Irl.	0.663	0.642
LIT	989.293	1 067.500
£St.	0.663	0.642
HFL	2.778	2.789
USD	1.130	1.225

Reply of the Commission

The Commission has made the following reply to the matters noted by the Court in paragraph 1.22:

Unit of account and rate of exchange

The Commission would point out that, as far as the common agricultural policy is concerned, agricultural prices or other forms of aid expressed in units of account are converted into national currencies using representative exchange rates (more commonly known as 'green rates') which approximate to market rates.

The financial transactions carried out by the intervention agencies in administering the common agricultural policy are translated by the Community into units of account at the representative rates for booking to the different budgetary headings of the EAGGF Guarantee Section.

But the budget is expressed in budgetary units of account. Consequently, expenditure and revenue arising from the application of two different exchange rates are entered under a specific heading, namely Article 790 'Gains and losses on exchange resulting from the application of different exchange rates'.

ACCOUNTING PRACTICES IN THE INSTITUTIONS

1.23 The following are the principal accounting practices which have been applied in drawing up the accounts covered by this Report.

Translation into u. a.

- (i) All items have been translated into u. a. at the budgetary parities stated in paragraph 1.22 (i) above.

Translation into EUA (European Development Fund only)

- (ii) Balance sheet items have been translated into EUA at the rates of exchange stated in paragraph 1.22 (iii) above. Transactions have been translated into EUA at the official daily rate of exchange.

Gains and losses in exchange

- (iii) Gains and losses on exchange relating to timing differences are included in Account 951 'gain on differences in exchange rates'.

Own resources

- (iv) In 1977 own resources consist of those established for the period January to October 1977 and credited by Member States during the year to the accounts of the Commission held by the appropriate national authorities. This is a transitional measure; from 1978 onwards own resources will be stated on a cash basis.

Financial contributions

- (v) Financial contributions are stated as the amount receivable for the year from Member States.

Other income

- (vi) Other income is stated on the basis of amounts established as receivable in the year and which have been actually received in the year. From 1978 onwards, other income will be stated on a cash basis.

Commitments

- (vii) Commitments are entered in the accounts on the basis of the commitments contracted up to 31 December.

Expenditure

- (viii) Expenditure is stated on the basis of items for which authorization reached the financial controller not later than 31 December and for which payment was effected by the accounting officer not later than the following 15 January ⁽¹⁾.

Capital items

- (ix) No expenditure is capitalized. All expenditure is written off as incurred.

Balance sheet

- (x) The summarized balance sheet represents the balance sheet of the Commission plus the balance sheet totals of the Office for Official Publications, the Joint Research Centre and of the Association for Scientific and Technical Cooperation (COST).

OBSERVATIONS ON ACCOUNTING PRACTICES

1.24 The Court of Auditors wishes to make the following observations on the accounting practices utilized in drawing up the accounts. In future the Court intends to pay particular attention to accounting practices used throughout the Communities in presenting accounts.

Balance sheet

- (i) The summarized balance sheet included in the accounts does not adequately present the assets and liabilities of the Communities, as required by the Financial Regulations ⁽²⁾. In particular, the summarized balance sheet, comprising the balance sheet of the Commission and the balance sheet totals of two other Community bodies and COST, does not comply with the following widely-established principles for the preparation of consolidated financial statements:

- (a) line by line aggregation of assets and liabilities shown in the balance sheet of each institution;
- (b) elimination of balances outstanding between institutions;
- (c) consistent application of accounting principles in the accounts of each institution.

The summarized balance sheet therefore does not fairly present the assets and liabilities of the Communities in the following respects:

- (a) the total of specified assets and liabilities shown in the balance sheet generally includes only amounts in the Commission's balance sheet but not those of other institutions. The amount stated as cash and bank accounts, for example, represents only balances held by the Commission and does not include amounts held by other institutions;
- (b) the balance sheet totals incorrectly include assets and liabilities of 1.7 million u.a., being the balance sheet totals of COST. The Commission administers the financial affairs of this association which is a joint project of Euratom with certain Member States and third countries, but COST does not form part of the assets of the Commission;
- (c) totals of assets and liabilities are inflated by inclusion of reciprocal compensating balances on accounts outstanding between Community institutions;
- (d) the validity of aggregate totals of accounts is questionable in cases where the basis of accounting is not consistent in all institutions.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 1.24 (i):

As to the comments on accounting practices, the Commission is surprised by the harshness of the criticism voiced by the Court of Auditors which it does not consider to be warranted. The Commission simply continued in 1977 to apply its system of accounting and of presenting its balance sheet — a system, developed in recent years, which never met with any criticism from the Audit Board. The Commission has endeavoured to supply as much information as

⁽¹⁾ Special provisions apply however to the EAGGF Guarantee Section (see Chapter 2 of this Report).

⁽²⁾ 1973 Financial Regulation, Article 83: OJ L 116 of 1. 5. 1973.

possible to the Budgetary Authority. To this end, detailed balance sheets for each Community institution have been submitted separately. Each balance sheet also shows the balances outstanding between institutions. To complete this information the Commission combined these balances to give a synthetic balance sheet which sets out, by heading, the data from each of the separate balance sheets. To facilitate the audit carried out by the Court of Auditors, the Commission thinks that it must continue to produce a balance sheet for each institution: in this context, the Commission would emphasize its concern to provide the budgetary authority with the fullest possible information on budgetary revenue and expenditure by presenting accurate and detailed accounts in accordance with the Financial Regulation. The revenue and expenditure accounts contain — among other things — information on the trend and utilization of budgetary revenue and appropriations and on all budgetary expenditure incurred during the relevant financial year.

The Commission is prepared to consider the suggestion put forward by the Court of Auditors regarding the presentation of a consolidated balance sheet. It cannot, however, take a unilateral decision on the standardization of accounting principles applied to the accounts of other institutions. Furthermore, the Commission is not empowered to give an opinion on accounting practices in the other institutions.

Comment of the Court of Auditors

The Court of Auditors, while noting the Commission's final sentence, considers that it should draw the attention of the discharge authorities to the fact that differing accounting practices are used in the Communities. Financial information produced on different bases is not directly comparable and the aggregation of such information in financial statements is of limited value.

Lack of consistency in translation to u.a.

- (ii) Translation from national currencies to u. a. or, in the case of the European Development Fund to EUA, should be carried out on a consistent basis. The following different methods of translation were noted:

- (a) The Commission uses standard monthly or quarterly rates of exchange for transactions with personnel but uses official rates for expenditure accounts.
- (b) The Council uses daily bank rates of exchange for certain categories of expenditure but the Economic and Social Committee uses official budget rates for all transactions. The Court of Justice and the European Parliament use both daily rates and standard rates of exchange.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 1.23 (ii):

The Commission would point out that the EUA was not yet applied to the general budget of the Communities in 1977; the remarks of the Court of Auditors therefore concern only conversions to u.a.

As required by the Financial Regulation in force in 1977, the Commission applied to all budget transactions the fixed conversion rates corresponding to the parity of each currency declared to the International Monetary Fund.

Faced with the ever-increasing gap between the official parities and actual value of currencies, the Commission decided to use — with effect from 1 November 1974 — updated exchange rates for the reimbursement of certain expenses to its staff. The intention was to reimburse the expenses actually incurred while avoiding any disparities arising from the currencies used and the place of employment of staff.

Reply of the Economic and Social Committee

The Economic and Social Committee has made the following reply to the observations made by the Court in paragraph 1.23(ii):

We would point out that the Economic and Social Committee applies the official budget rates (cf. Article 10, paragraph 1 of the Financial Regulation, 1 May 1973 — in force until 31 December 1977) for bank- or cash transactions in currencies other than the Belgian franc. The daily exchange rate is used for the reimbursement in Belgian francs of sums in foreign currency (meeting expenses of members, mission expenses).

Accounts for stocks and fixed assets

- (iii) The measures implementing the Financial Regulations provide that accounts should be kept for stocks and fixed assets ⁽¹⁾. Under the accounting practice currently followed stocks and fixed assets are written off as expenditure on acquisition. The underlying value of stocks and fixed assets owned by the Communities is not therefore reflected in the financial statements presented.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 1.23 (iii):

On the subject of stock and fixed asset accounts, the Community institutions have always drawn up balance sheets and attached them to the annual revenue and expenditure accounts in accordance with the provisions of earlier Financial Regulations. The same has been done

for the 1977 accounts in accordance with the new Financial Regulation which has not changed the requirements in this respect. In the Commission's view, the nature of a balance sheet is determined by the nature of the accounting system and should not show an asset or a liability which is not reflected in the accounts. The balance sheets do not, therefore, show the value of certain capital assets; such as buildings and office furniture, because the expenditure on them is current budgetary expenditure as provided for in the Financial Regulation. It is not posted to a capital asset account and then depreciated over a number of years but is written off in the year of purchase.

On the other hand, the Commission does keep permanent inventories of all movable and immovable property in accordance with the Financial Regulation (Title IV — Section II). In addition to the revenue and expenditure accounts and financial balance sheets relating to budgetary operations for the financial year 1977, the Commission sent to the budgetary authority and the Court of Auditors a summary statement, by value and number, of the abovementioned inventories; this is a computer-produced document of some 40 000 pages which can be consulted at any time.

⁽¹⁾ OJ L 170 of 1. 7. 1975, Article 76.

Chapter 2 — EAGGF Guarantee Section

INTRODUCTION

2.1 In examining for the first time the accounts of the Guarantee Section, which comprise 75 % of the Commission's budget appropriations for the financial year 1977, it is fitting that the Court should review the situation it has inherited.

On the credit side, there are of course the results already obtained by the Audit Board which, helped by the recent development in the use of its own on-the-spot audits, enabled it to make specific observations in certain areas, particularly in its last report which dealt with the 1976 accounts, and to pass on to the Court the results of its enquiries.

On the debit side, the Court was handicapped in its task of auditing the implementation of the Guarantee Section of the budget because of considerable delay on the part of the accounting departments at the Commission in supplying supporting documents. This handicap has emphasized the difficulties which inevitably face the Court in the present phase of its development and which have led to a reduction in the frequency of on-the-spot audits carried out in the Guarantee Section.

2.2 It is even more important to note, however, that while it is recognized that the rules applying to the Guarantee Section differ from the general rules laid down in the Financial Regulation for the execution of the budget, the control of the final

expenditure has been carried out so late that, because of the delays in clearing the accounts, it has tended to lose reality or become arbitrary. The worst effect of this persistent delay is to remove from the discharge decision taken by the political authority most of its significance.

Problems facing the Court from the delay in the forwarding of supporting documents

2.3 The effect of the special rules which govern the financing of the EAGGF Guarantee Section⁽¹⁾ is that the concept of documentary evidence at a single level to support a particular expenditure operation, which is the pattern of the general Financial Regulation, has been replaced by a concept of documentary evidence at two levels:

- (i) supporting documents for provisional expenditure in the carrying out of operations of the financial year. These come either from the Member States (monthly statements of expenditure and financial position) or from the Commission (decisions regarding advances and global provisional commitments, detailed commitments and payment orders).
- (ii) documents completed in support of the final clearance of the accounts, such as summary statements and national audit reports which are transmitted by the Member States, and the vouchers which remain in the Member States.

2.4 Only the first category of document is available at the Commission during the course of the audit of expenditure for the financial year for the preparation of the Court's Annual Report. However incomplete the material thus supplied may be for establishing that all expenditure has been incurred in a correct and proper manner by the paying agencies, these documents nevertheless form the necessary basis for the audit by the Court. It is thus essential that they should be forwarded under the terms and time-limits laid down.

2.5 The Court should receive the supporting documents at the earliest possible moment in order to

assess whether the granting of advances and the budgetary allocations have been effected within the prescribed time-limits and whether the facts available are sufficient to support these operations. Regular transmission of complete sets of these documents is the more important because the accounting situation for the financial year in the Guarantee Section is not known until 31 March of the following year and it is not until the following month, i.e. in April, that it is possible to have available the facts to be taken into account in the revenue and expenditure account. Given that in accordance with Article 83 of the Financial Regulation of 21 December 1977, the Court of Auditors must formulate by 15 July any observations which it may wish to include in the Annual Report, so that their significance can be clear to the political authority responsible for the discharge, it is obvious that any delay in the transmission of supporting documents puts the Court in a position where it is difficult to carry out its allotted tasks.

2.6 The delays in the transmission of documents have excessively increased in the past. The problem has arisen again as regards expenditure for the financial year 1977 and, at the beginning of May 1978, at the time of drafting these observations, the Court of Auditors was in possession of only:

- (i) a file containing the cumulative expenditure (first and second categories) for the first quarter of 1977, i.e. up to 31 March;
- (ii) a file containing the expenditure of the first category of the month of May (April and May together) as returned by the Member States;
- (iii) the provisional global commitments in accordance with Article 107 of the Financial Regulation for the months of January, February, April, May, July and September and the granting of two special advances to Italy and Germany in June and September;
- (iv) commitment proposals in accordance with Article 108 of the Financial Regulation for the periods January-March and April-May and the order for payment according to Article 108 of the Financial Regulation for the periods January-March and April-May.

2.7 The abovementioned documents were not forwarded until the end of 1977. Commission decisions regarding advances of funds for the payment of expenditure financed by the Guarantee Section of the EAGGF have not been forwarded since August 1977.

⁽¹⁾ Title VIII of the Financial Regulation of 21 December 1977; OJ L 356 of 31. 12. 1977;
Regulation (EEC) No 729/70 of 21 April 1970, OJ L 94 of 28. 4. 1970;
Regulation (EEC) No 2697/70 of 29 December 1970, OJ L 285 of 31. 12. 1970;
Regulation (EEC) No 1723/72 of 26 July 1972, OJ L 186 of 16. 8. 1972.

2.8 According to information obtained from the authorizing officer, he made a detailed commitment for these matters at the same time as the order for payment, although not necessarily for the same amount. The order was given on the following dates;

— January, February, March	7 July 1977
— April, May	4 August 1977
— June, July	13 October 1977
— August, September	8 December 1977
— October, November, December:	
— First category	28 February 1978
— Second category	13 March 1978

2.9 It is thus apparent that on many occasions the time-limits laid down by the Financial Regulation for detailed commitment were not observed. It is proper, however, to say that to the abovementioned dates should be added the interval necessary to carry out the financial control as well as a certain number of days for operations by the budgetary departments.

2.10 In all, there was only a short time available for the Court of Auditors to assess fully the 1977 Accounts. In these circumstances, judgment about the use of credits relating to the Guarantee Section can only be tentative. The Court feels obliged to say that if the same conditions apply in the future it may have to consider publishing its comments on the operations of FEOGA Guarantee in a separate report under the authority of Article 206 (a), paragraph 4, sub-paragraph 2 of the Treaty.

The continuance of excessive delays in the final clearance of the accounts tends to make the control of Guarantee expenditure arbitrary and illusory

2.11 The comment made for the first time by the Court follows the repeated criticisms made on this subject by other bodies, in particular by the Assembly.

Accounts for 1967/68 to 1970

2.12 Because of the very long delays in closing the accounts for the period 1967/68 to 1970 ⁽¹⁾ the

Commission, at the end of 1977, submitted to the Council a proposal for an *ad hoc* Financial Regulation.

2.13 The Court of Auditors gave its advice on 14 April 1978 and Parliament also gave its advice on 12 May. It may be assumed that, after the decision of the Council, the legislative procedure will be concluded during the summer of 1978. Once the Regulation has been adopted, the Commission will call for funds from the debtor Member States and make payments to the creditor Member States. If the operations run to plan, the final settlement for the periods 1967/68 to 1970 should be completed before the close of the financial year 1978.

2.14 It will be noted that, in this instance, the closing of these accounts will have taken from 8 to 11 years and that it will have been necessary to bring this about by replacing the Regulation in force by a special Regulation for the periods in question. The opinion given by the Court drew attention to the unusual nature of such a situation in which its opinion was only being sought about this specific Regulation and not about the totality of the transactions whose closure it is supposed to facilitate.

Accounts for 1971 and 1972

2.15 The final clearance of the accounts for the financial years 1971 and 1972 took place on 2 December 1975 and is still the only occasion on which a decision has been made to close accounts under the system of financing laid down in Regulation (EEC) No 729/70 currently in force. The decision may be regarded as final from the point of view of settling Guarantee Section budgetary expenditure for these years, since some 61 million u.a. was recovered and was set against advances for the financial year 1975. Yet it is not final from the point of view of the general budget since the recoveries have been challenged by three Member States — Germany, France and the Netherlands — before the Court of Justice. The disputed sums amount to 24.6 million u.a. and may have to be returned in whole or in part to the States concerned.

2.16 If this proves to be the case, given the size of the amounts involved, it seems likely that the budgetary principles of annuality and speciality will once more be called into question, as they were when these amounts were originally charged to the 1975 budget. In such circumstances the regulations relating to the financing and clearance of Guarantee expenditure and those concerning Title VIII of the general Financial Regulation should be reviewed.

⁽¹⁾ Under former financial rules for reimbursement of eligible expenditure in application of the Financial Regulation (EEC) No 64/127, of 5 February 1964; OJ L 34 of 27. 2. 1964.

Accounts for subsequent years

2.17 The final clearance of the accounts for subsequent financial years may be analysed as follows:

(i) Financial year 1973:

The Commission has completed the control of these accounts and after examining the replies of the Member States must submit its proposals for clearance to the EAGGF Committee. It hopes to carry out the final closing of accounts before the end of 1978 (estimated delay 4 years).

(ii) Financial years 1974 and 1975:

The on-the-spot verifications are taking place under a programme which has been notified to the Court. The Commission hopes to complete this programme by the beginning of 1979, and if all goes well, to close the accounts by the end of the year (estimated delay 3 or 4 years).

(iii) Financial year 1976:

Although under the terms of Regulation (EEC) No 1723/72, the Intervention Agencies should have forwarded supporting documents before 31 March 1977 — a time-limit which has hitherto never been observed — two Member States had not sent them by the end of April 1978, i.e. one year after the date laid down. Such a situation bodes ill for any future recovery of lost ground.

2.18 In its reply to comment No 66e (p. 91) of the Audit Board's report on the 1976 accounts the Commission said:

'Once delays have been overcome, it should be possible to carry out an annual clearance of the accounts of a specific financial year within 2 years at the latest of the end of that financial year; this time-limit leaves Member States approximately 6 months to submit their files, a year for their examination and 6 months for the procedures.

The Commission intends to put forward amendments to this effect to the regulations governing the annual clearance of accounts, but thinks that priority should be given to making inroads on the backlog.'

2.19 Apart from the fact that it seems doubtful, in the light of what has happened so far, whether it will in fact be possible to dispose of the backlog, it should be noted that it is the Commission's intention to alter the present prescribed timetable by doubling the length of the constituent elements:

(i) Transmission of returns by Member States: 6 months after the close of the financial year

instead of the 3 months laid down by Regulation (EEC) No 1723/7, Article 1, paragraph 2;

(ii) Clearance by the Commission: 2 years after the close of the financial year instead of one — Regulation (EEC) No 729/70, Article 5, paragraph 2 (b).

2.20 At the present juncture, it is with the tacit agreement of the Commission that the Member States are allowed to submit their returns 9 to 10 months after the end of the financial year instead of 3.

2.21 The solution proposed — assuming that it is possible to hold to the time-limits fixed — would thus bring about an improvement on the present situation, where the average period for clearance is about 4 years. It should be emphasized, however, that it is tantamount to blessing a practice whereby the EAGGF Guarantee accounts would be cleared after the final discharge decision had been given to the Commission by the political authority, depriving that decision of most of its meaning. This must be the general purport of the opinion that the Court would give when consulted pursuant to Article 209 of the Treaty, if Regulation (EEC) No 729/70 were to be modified on this point.

The objectives of the Court's audit

2.22 To summarize, the difficulties which the Court met in formulating in good time its observations on the implementation of the EAGGF Guarantee Section of the 1977 budget were due in particular to the problems of setting up its internal organization and the recruitment of the staff and to the delays in the transmission of documents by the Commission. It is to be hoped that these two sources of difficulty will disappear in the future.

2.23 The policy that the Court is to adopt in auditing the EAGGF Guarantee Sector will clearly depend upon certain criteria:

(i) Whatever the extent of the responsibilities placed upon the Court by the texts of the Treaties and the general Financial Regulation relating to the auditing of expenditure by documentary evidence and on-the-spot verifications and whatever the means at its disposal, the Court can only hope, bearing in mind the extent and the complexity of the area in question, to carry out random on-the-spot audits which will enable it to comment especially on the functioning of and the results in the various sectors of the market.

(ii) EAGGF — Guarantee expenditure is already subject to two internal controls: that by the

authorizing officer as regards clearing the accounts and that by the financial controller, which mainly takes the form of prior approval of the commitment and payment. The on-the-spot checks carried out by these two internal control bodies in the Member States have a special structure as far as the EAGGF Guarantee Section is concerned.

— Within the Directorate-General for Agriculture there is a section which is responsible both for the financing and for the authorizing officer control and has specialized staff for this purpose.

— For the past few years the financial controller has paid particular attention to the problems of EAGGF Guarantee and uses for this task a substantial part of his staff. Considering that he should not confine himself simply to the task of granting or refusing his approval in respect of Commission decisions, he carries out surveys of a general kind (called 'special controls') relating to the functioning of the agricultural market sectors. These surveys are designed in particular to test the way in which conditions support the assumptions on which the expenditure is based.

(iii) In fact, as the decisions taken at Commission level are of a provisional kind, not only at the stage of commitment, but also at that of payment, the true authorizing officers of EAGGF — Guarantee expenditure are the intervention agencies in each of the Member States. It is not until several years later, at much too late a date, that the final clearance of the accounts makes it possible to carry out a systematic control of decisions about expenditure which were made from day to day on the basis of Community legislation which is often difficult to interpret. It is therefore necessary that, before this final clearance, as thorough a control as possible be exercised on the national accounting officers. The Court therefore is faced with the need to gather as much information as possible about the way in which control is exercised in the Member States. The assessment of the way in which any national controls function in relation to Community expenditure carried out by the intervention agencies will always be a matter of interest to the Court since it will be an important factor in the drawing up of its audit programmes.

2.24 The Court recognizes that these aims which appear of fundamental importance to its role in the Community, will only be achieved over a period of

time and by working with the institutions and other bodies concerned with the utmost cooperation possible.

IMPLEMENTATION OF THE 1977 BUDGET

Appropriations: Development and allocation

2.25 Table 2 shows a comparison of the appropriations for financial year 1976 with those for financial year 1977.

From 1976 to 1977:

- the appropriations for the financial year increased from 5 835.2 million u.a. to 7 103.1 million u.a., i.e. + 21.7 %;
- the appropriations carried forward from the preceding financial year (both automatic carry-overs and non-automatic carry-overs) increased from 332.8 million u.a. to 677.8 million u.a., i.e. + 103 %;
- the total appropriations available during the financial year increased from 6 168 million u.a. to 7 780.9 million u.a., i.e. + 26.1 %.

Determination of appropriations for the financial year

2.26 In the general budget of the Communities for the financial year 1977 (finally adopted 16 December 1976 ⁽¹⁾), the appropriations shown under Titles 6 and 7 (Agricultural Guarantee and Guidance Funds) amounted to 6 167 400 000 u.a.

2.27 Amending and supplementary budget no 1 for the financial year 1977 (adopted 7 July 1977 ⁽²⁾) increased these appropriations by 934 200 000 u.a. thus making a total of 7 101 600 000 u.a.

2.28 In the course of its meeting of 26-27 September 1977, the Council approved a transfer from one title to another of 1 500 000 u.a. by drawing on Chapter 100 — provisional appropriation — in favour of the Guarantee Section, Chapter 64, Item 6410 — denaturing premium for sugar. This transfer was intended to give aid to beekeepers by means of the premium (100 u.a./tonne $\times$ 15 000 tonnes of sugar). The appropriations available thus amounted to 7 103 100 000 u.a.

⁽¹⁾ OJ L 79 of 28. 3. 1977.

⁽²⁾ OJ L 233 of 12. 9. 1977.

Table 2 — Appropriations available under Titles 6 and 7 in 1976 and 1977

	(in million u.a.)	
	1976	1977
I — Appropriations for the financial year		
— Initial appropriations	5 160.3	6 167.4
— Supplementary budget	717.3	934.2
— Transfers from one title to another	— 42.4	+ 1.5
Total I	5 835.2	7 103.1
II — Appropriations from the previous financial year (amounts carried forward)		
— Automatic carry-overs (Article 6 (1) (c))		
— by way of payments carried forward (from appropriations committed in detail)	299.2	529.2
— by way of commitments carried forward (from globally committed appropriations)	33.6	56.2
— Non-automatic carry-overs (Article 6 (1) (b))	332.8	585.4
	—	92.4
Total II	332.8	677.8
Total (I + II) of available appropriations	6 168.0	7 780.9

Transfers within Titles 6 and 7

2.29 On 26 May 1977, 5 July 1977 and 3 March 1978 the Commission decided to make certain transfers from item to item within the same chapter in accordance with Article 21 of the Financial Regulation.

2.30 Transfers from one chapter to another were carried out primarily to take account of expenditure notified up to 31 July by the Member States. The estimates for August, September and October 1977 showed there were insufficient appropriations for certain chapters in amending and supplementary budget no 1. It was apparent that the appropriations for Chapters 62 (milk and milk products), 64 (sugar), 68 (fruit and vegetables) and 74 (refunds on certain goods obtained by processing agricultural products) should be increased. These transfers, totalling 155 000 000 u.a., were derived from appropriations relating to cereals, oils and fats, pigmeat and

'accession' compensatory amounts. They were approved by the Council on 30 January 1978.

2.31 Finally, on 21 March 1978, after the completion of the Intervention accounts for expenditure falling under the second category, another series of transfers was requested to make good the shortfall of the appropriations in the sectors relating to sugar, fruit and vegetables, tobacco and refunds on certain goods resulting from the processing of agricultural products. To this a special item was added, viz. a transfer of 21 783 000 u.a. intended to cover the carrying forward of an appropriation to balance a receipt in 1977 arising from a 'co-responsibility' item. This series of transfers was approved by the Council on 17 April 1978.

2.32 The procedure followed for these transfers calls for comment. Article 101 of the Financial Regulation lays down that the Commission can make proposals to the Council for transfers of appropriations from one chapter to another not later

than one month before 31 March of the following financial year.

The Council must decide by a qualified majority within three weeks. If it does not do so, the transfers of the appropriations shall be treated as approved.

2.33 On the other hand, Article 98 lays down that the expenditure is to be taken into account for a financial year on the basis of payments made up to 31 December by the authorities and bodies concerned in so far as the relevant commitments and authorizations have reached the accounting officer not later than 31 March of the following year.

2.34 The situation as regards the transfers in March 1978 is as follows:

- (i) by not bringing the matter before the Council until 21 March, the Commission did not observe the time-limit for the proposal for transfers from one chapter to another;
- (ii) the Council gave its approval on 17 April 1978, although the time-limit for such a decision is three weeks after 1 March.

2.35 The conclusion is therefore that either the commitment and the authorization were sent to the accounting officer before 31 March and expenditure had been incurred in excess of the appropriations, or, alternatively, that approval was awaited. In the latter case, the expenditure could no longer be charged in the accounts since the prescribed time-limits had been exceeded. In either situation, the responsibility of the financial controller could be exercised.

Appropriations carried forward

2.36 In 1977 the 677.8 million u.a. carried forward represented 11.5 % of the total appropriations for the preceding year.

Of this total, 92 355 265 u.a. related to unused appropriations carried forward under the authority of Articles 6 (1) (b) and 6 (3) of the Financial Regulation for the purpose of meeting out lay on refunds for Community food-aid programmes for previous years.

2.37 The request to carry forward was not sent by the Commission to the Council until 9 June 1977 and the latter did not accept it until 17 October 1977 although Article 6 (3) lays down that 'the Commission shall submit to the Council and shall forward to the European Parliament, before 1 May, the requests to carry over appropriations ...' and

that the carry-over of such items shall be deemed to have been approved unless 'the Council ... decides otherwise within one month'.

2.38 At the end of the financial year 1977 (see Table 4) the total appropriations carried forward to 1978 amounted to 1 022.8 million u.a., i.e. 14.4 % of the total appropriations for the financial year.

2.39 Appropriations not automatically carried forward amounted to only 23.7 million u.a. corresponding to the revenue relating to the financial contribution of milk producers levied in 1977 and non-utilized, including the amount to meet the loss arising from the application of varying exchange rates.

2.40 But apart from any comments which the Court reserves the right to formulate on the underlying principle of hypothecation involved here, it is pointed out that the time-limit laid down in Article 6 (3) of the Financial Regulation was no better observed in 1978 than it had been in 1977. So when the revenue and expenditure account was drawn up on 1 June, it did not include, as laid down by Article 73 (2) of the Financial Regulation, 'appropriations maintained or carried over under Article 6', since no final decision had been made at that date.

Expenditure in the financial year

2.41 Tables 3 and 4 show the commitments entered into out of the appropriations for the financial years 1976 and 1977 (Table 3) and the payments made during those years (Table 4).

Sums made available (advances)

2.42 The Commission made advances available to the Member States in the form of global provisional commitments amounting to 7 033 318 019 u.a., i.e.

- (i) 12 monthly advances totalling 6 918 290 019 u.a., i.e. an average of 576 524 000 u.a. per month;
- (ii) 2 special advances amounting to 94 000 000 u.a., one granted in June to Italy totalling 64 000 000 u.a. and the other in August 30 000 000 u.a. to Germany arising from the fact that the expenditure of these Member States during the months in question exceeded the estimates;

- (iii) an advance of 21 028 000 u.a.: the financing of expenditure involving premiums for the non-marketing of milk and milk products and for the conversion of dairy herds supported, in accordance with Regulation (EEC) No 1078/77 of 17 May 1977 ⁽¹⁾ as to 60 % by the Guarantee Section and as to 40 % by the Guidance Section, the expenditure charged to the Guarantee Section being decided upon separately. During the financial year the only decision to grant an advance to cover this type of expenditure was taken on 20 October 1977.

⁽¹⁾ OJ L 131 of 26. 5. 1977.

2.43 On 1 January 1977 the Member States held liquid assets amounting to 137 851 853 u.a. which was made up of the difference between the financial resources for the financial year 1978 and the expenditure actually incurred during this financial year.

2.44 These balances, plus the advances, brought the total amount of financial resources available during the financial year to 7 171 169 872 u.a. This sum was equal to the 92 355 265 u.a. committed by way of non-automatic carrying forward from 1976 plus the 7 078 814 607 u.a. committed out of the appropriations for the financial year 1977.

Table 3 — Commitments out of appropriations for the financial years 1976 and 1977

(in million u.a.)		
	1976	1977
I — Global commitments		
— funds available under 1.1	8.6	137.9
— advances	5 667.6	6 940.9
Total I (equal to a + b below)	5 676.2	7 078.8
a) detailed commitments	5 570.0	6 570.0
b) balance of global commitments		
— carried over globally	56.2	—
— cancelled	50.0	508.8
Total b)	106.2	508.8
II — Non-committed amounts		
— non-automatic carry-over	92.4	23.7
— cancelled	66.6	0.6
Total II	159.0	24.3
Total (I + II) (equal to total I of Table 2 = Appropriations of the financial year)	5 835.2	7 103.1

Table 4 — Payments made in 1976 and 1977

(in million u.a.)		
	1976	1977
I — Use of appropriations for the financial year		
a) Charged as payments	5 040.8	5 570.9
b) Automatic carry-over (Article 6 (1) (c))		
— out of appropriations committed in detail	529.2	999.1
— out of appropriations committed globally	56.2	—
Total b)	585.4	999.1
c) Non-automatic carry-over non-committed appropriations (Article 6 (1) (b))	92.4	23.7
(Total carry-over b) and c))	(677.8)	(1 022.8)
d) Cancellations:		
— out of appropriations committed globally	50.0	508.8
— out of non-committed appropriations	66.6	0.6
Total d) (cancellations for the financial year)	116.6	509.4
Total I (equal to that in Table 2)	5 835.2	7 103.1
II — Use of sums carried forward		
a) charged as payment		
— out of automatic carry-overs	324.2	503.5
— out of non-automatic carry-overs	—	92.4
Total a)	324.2	595.9
b) cancellation of carry-over	8.6	81.9
Total II (equal to that in Table 2)	332.8	677.8
Total (I and II) (equal to that in Table 2)	6 168.0	7 780.9

2.45 Almost all of the appropriations relating to the Guarantee Section, i.e. 99.7 %, were made available to the Member States.

2.46 There was a difference between the appropriations for the financial year and the sums made available to the Member States of 24 285 393 u.a. of which 23 700 000 u.a. was carried forward, the balance, i.e. 585 393 u.a. being cancelled.

Detailed commitments

2.47 The sums committed in detail according to the budgetary nomenclature, on the basis of monthly statements by the Member States, amounted to 6 063 887 977 u.a. (i.e. 91 %) of expenditure in the first category and to 598 487 577 u.a. (i.e. 9 %) of expenditure in the second category, viz. a total of 6 662 375 554 u.a.

Table 5 — Available funds and expenditure of the Member States for the financial year 1977

(in million u.a.)

Member State	Funds available on 1. 1. 1977	Advances for the financial year 1977	Total Funds available for the financial year 1977	Expenditure 1. 1. 1977 to 31. 12. 1977	Funds available on 31. 12. 1977	Use of advances (%)
	(a)	(b)	(c) = (a) + (b)	(d)	(e) = (c) - (d)	(f)
Belgium	0.1	426.1	426.2	418.6	7.6	98.2
Denmark	0.6	630.3	630.9	624.8	6.1	99.0
Germany	—	1 274.6	1 274.6	1 245.9	28.7	97.7
France	0.5	1 701.0	1 701.5	1 572.4	129.1	92.4
Ireland	0.7	586.0	586.7	588.1	— 1.4	100.2
Italy	131.5	1 126.0	1 257.5	965.8	291.7	76.8
Luxembourg	0.1	8.5	8.6	8.1	0.5	94.2
Netherlands	0.2	910.8	911.0	887.3	23.7	97.4
United Kingdom	4.2	370.0	374.2	351.4	22.8	93.9
Total	137.9	7 033.3	7 171.2	6 662.4 ⁽¹⁾	508.8 ⁽²⁾	92.9

⁽¹⁾ Including 92.4 million u.a. in non-automatic carry-overs.⁽²⁾ This balance is subject to amendment (paragraphs 2.52 and 2.54 to 2.57 below).

2.48 The difference between the global commitments and the detailed commitments of the budgetary nomenclature was 508 794 318 u.a. which represents the difference between amounts received by Member States during the financial year and the expenditure declared by them during the same period. This sum constituted the balances held by the Member States on 31 December 1977, i.e. 7.1 % of the sums made available to them. The utilization rate was thus 92.9 %.

2.49 On 31 December 1977 Italy held a balance of 292 million u.a., i.e. more than 57 % of the total funds available at the close of the financial year (Table 5).

2.50 The sum of 508 794 318 u.a., the balance of global commitments, did not give rise to the automatic carry-forward of appropriations under Article 6 (1) (c) of the Financial Regulation but to a cancellation. As it forms part of the funds available in the Member States concerned, the money will be used to meet expenditure for 1978.

Debiting of payments

2.51 Under Article 54 of the Financial Regulation, payment is the final act whereby the relevant institution is discharged of its obligation towards its creditors. According to the special provisions applicable to the EAGGF Guarantee Section, however, the debiting of a payment is only a provisional accounting effected in relation to the financial year, on the basis of the expenditure incurred by the intervention agencies.

2.52 Payments charged in the accounts for the financial year 1977 amounted to 5 663 314 094 u.a. including 5 064 826 517 u.a. (i.e. 89.4 %) for expenditure of the first category and 598 487 577 u.a. (i.e. 10.6 %) for that of the second category. All the expenditure of the second category which had been the subject of a commitment to chapter, article and item was charged as a payment. The difference between the expenditure committed according to the budgetary nomenclature and amounts charged as payments amounted to 999 061 460 u.a. a sum which corresponds to the expenditure of the first category by the AIMA (Azienda di Stato per gli interventi nel

mercato agricolo), the Italian intervention agency, which is still liable to amendment. The authorizing officer has decided that the figures supplied by this body were neither full enough nor precise enough to prove that the expenditure declared corresponded to the payments actually made. Since the financial year 1973, the Commission has consistently carried forward in this way: the expenditure of the first

category by the AIMA, this being on each occasion the subject of a *a posteriori* amendment.

2.53 The Commission has decided to carry forward once again the appropriations for 999 061 460 u.a. under the provisions of Article 6 (1) (c) of the Financial Regulation.

Table 6 — Management of appropriations carried forward from 1976 (automatic carry-overs)

(in million u.a.)

Implementation of carry-overs	Total	Allocations	Cancellations
Appropriations automatically carried over to 1977 (Article 6 (1) (c)):			
— out of appropriations committed in detail (not charged as payments) ⁽¹⁾	529.2	500.4	28.8
— out of globally committed appropriations (not committed in detail)	56.2	3.1	53.1
Total	585.4	503.5	81.9

⁽¹⁾ These amounts are related solely to AIMA payments (expenditure of the first category).

Appropriations carried forward from 1976 (automatic carry-overs)

2.54 The total appropriations to be carried forward to 1977, under Article 6 (1) (c) of the Financial Regulation, amounted to 585 377 906 u.a. including 529 196 386 u.a. for detailed commitments (all relating to expenditure of AIMA) and 56 181 520 u.a. for global provisional commitments (Table 6).

2.55 The final statement of expenditure by AIMA during the financial year 1976, which was forwarded after the drawing up of the revenue and expenditure account concerned amounts which had been allocated to the relevant heading in the 1976 budget. Amendments to the entries in the account were thus necessary.

The entries totalled 503 525 497 u.a., made up of 497 526 054 u.a. of expenditure specifically and finally allocated to 1976 and 5 999 443 u.a. which had been the subject of detailed commitment but ultimately was not spent. The total cancellations amounted to 81 852 404 u.a.

2.56 This *a posteriori* correction for AIMA expenditure showed that too large a sum, — approx. 6 million u.a. had been transferred to Italy and charged to the Community budget. In order to remedy this situation on a provisional basis, the account for global provisional commitments (Account 7999) was debited with 5 999 443 u.a. and the account recording the advances granted to Italy was debited with the same amount. A new account: 'advances to Italy to remedy the financial year 1976', was opened and credited with the contra-entry for the amount mentioned above. When the accounts are finally cleared, this last account will be debited with the sum in question by an appropriation from the appropriate budgetary head.

2.57 The Commission justifies this complicated procedure by stating that it has the advantage of creating an entry in the accounts for as long as the problem remains open while at the same time neutralizing the effect on the cash balance of the Member State concerned. Nevertheless, it must be said that a new extra-budgetary account has been opened and that even before the accounts were cleared, adjustments were necessary which reduced the accuracy of the revenue and expenditure account.

The separate charge for different exchange rates for the measures financed by the EAGGF, Guarantee Section

2.58 Regulation (EEC) No 474/77 of 8 March 1977 ⁽¹⁾ and Regulation (EEC) No 679/77 of 31 March 1977 ⁽²⁾ laid down, with effect from 1 January 1977, the use of a separate heading for losses arising from applying different rates of exchange, i.e. the representative rates used when converting into national currencies the amounts involved in Guarantee Section transactions and the budgetary rates when the reverse takes place.

2.59 Thus it will be seen that the expenditure as declared by the Member States was weighted by a coefficient representing a conversion rate valid for the whole budgetary year. This coefficient took account of the budgetary and representative rates.

The effect was that the various chapters, articles and items in the budget recorded expenditure in 'agricultural' u.a. while the total of Titles 6 and 7 concerning EAGGF Guarantee Section appropriations is expressed in u.a., the difference being charged in the accounts under Article 790: 'loss resulting from the use of different exchange rates'.

2.60 The total appropriations shown under this Article amounted to 603 500 000 u.a. and the expenditure incurred to 509 490 095 u.a.: there is a credit balance for Belgium, Germany, Luxembourg and the Netherlands for a total of 125 871 510 u.a. and a debit balance for the other Member States of 635 361 605 u.a.

The effect of this practice was to reduce the expenditure specifically intended for agriculture to the sums directly chargeable to the Articles and Items for each market, by the elimination of monetary effect so far as that was possible.

2.61 It is of interest to note that the 1978 budget takes this development further. The loss from exchange differences therein is transferred to Title 4 under a new Article 460: 'Expenditure resulting from the application of different exchange rates to the EAGGF Guarantee Section'. Titles 6 and 7 show only expenditure directly relevant to transactions in respect of agricultural products. As a result their proportionate share of the general budget decreases to 57 % from the level of 78 % in 1977.

⁽¹⁾ OJ L 64 of 10. 3. 1977.

⁽²⁾ OJ L 84 of 1. 4. 1977.

COMMENTS ON THE BUDGET ESTIMATES AND ON THE MANAGEMENT OF THE ACCOUNTS

Budget estimates

2.62 During the last two financial years supplementary appropriations reflecting considerable increases (+ 13.9 % in 1976 and + 15.9 % in 1977) over the initial appropriations had to be introduced. This is not unusual in itself, since expenditure is subject to market trends which are difficult to predict. It is nevertheless proper to question the quality of the initial and the amended estimates, since considerable sums were cancelled or automatically carried forward following these increases in appropriations because of the failure to commit them either in detail or globally. Such was the case in 1976 as regards 265.2 million u.a. (balance of global commitments of 106.2 million u.a. plus uncommitted sums of 159 million u.a.) and in 1977 as regards no less than 533.1 million u.a. (balance of global commitments of 508.8 million u.a. plus uncommitted amounts of 24.3 million u.a.).

Balances with Member States

2.63 The balances available on 1 January in the current and two previous financial years differed surprisingly:

		(in million u.a.)
	1. 1. 1977	1. 1. 1978
	8.6	137.9
		508.8

The situation at the beginning of the financial year 1976 may have reflected too tight a situation. But that at the beginning of 1978 undoubtedly shows that too much latitude has been extended to the benefit of certain Member States (see Table 5 above).

Budget operations

2.64 The situation described above concerning the consistent carrying forward from one financial year to another of the total of the payments in the first category made by AIMA obviously presents an anomaly. In 1977 the procedure followed will not prevent the cancellation of 81.9 million u.a. of the appropriations carried forward from 1976. Above all, the total of the appropriations carried forward in this way has trebled over three financial years:

		(in million u.a.)
	1975 to 1976	1976 to 1977
	332.8	585.4
		999.1

Thus ever-increasing sums are falling outside the discipline of annual control, beyond the powers of decision of the budgetary authority.

Reply of the Commission

Reply to the introductory paragraphs (paragraphs 2.1 and 2.2):

As the policy to support the agricultural markets is the only fully-integrated policy paid for entirely out of the Community budget, its costs naturally accounts for the largest share of the budget funds.

All in all, expenditure on supporting agricultural markets amounted to 6 662.4 million EUA in 1977, an increase of 19.6 % over expenditure in this section during 1976.

Expenditure on export refunds to cover the price difference between the Community market and the world market accounted for about 40 % of this total.

Expenditure on intervention in the internal market accounted for about 45 %. This consisted of:

- (i) 'first category' expenditure where unit amounts of expenditure are standardized by Community regulations (e.g. aids for private storage, production refunds to encourage industry to use Community products, aids to producers of olive oil, etc.);*
- (ii) 'second category' expenditure, connected with the buying-in, storage, processing and marketing of the product.*

Under this heading, the EAGGF — Guarantee Section — pays:

- (a) the difference between the purchase price and the intervention selling price of the product;*
- (b) expenditure on large-scale storage operations (putting into and taking out of storage, time in storage);*
- (c) interest on the value of products out of circulation.*

EAGGF — Guarantee Section — expenditure on the different products breaks down as follows:

- Milk and milk products: 38.2 %*
- Cereals: 8.8 %*
- Sugar: 8.0 %*
- Beef and veal: 6.2 %*
- Oils and fats: 4.6 %*

— Tobacco: 3.1 %

— Fruit and vegetables: 2.8 %

— Wine: 1.4 %

— Monetary compensatory amounts: 12.9 %

— Expenditure resulting from the application of different exchange rates: 7.6 %

— Other: 6.4 %.

As far as management is concerned, the implementation of the rules on the common agricultural policy results in a wide variety of operations involving large numbers of people both in the public and the private sectors. Financial management is decentralized in so far as payments are made in detail in the Member States which have authorized paying agencies to do this. So far, the nine Member States have designated 44 paying departments or agencies. However, this large number of agencies does not facilitate the management of Community funds. At the beginning of 1978, the Commission set up an interdepartmental working party to coordinate inspection visits to Member States in order to make inspection of own resources and of EAGGF — Guarantee Section — expenditure more effective.

Furthermore, the financial implementation of the EAGGF — Guarantee Section — and the rate of expenditure by paying agency and by product are affected by many unpredictable factors like the weather, the world markets, Community decisions, etc. which cannot be allowed for in advance with any degree of accuracy. This being the case, it is inevitable that there should be discrepancies between forecasts and outturn, and there are bound to be transfers between different EAGGF headings and sometimes even supplementary budgets at a certain stage in the budgetary procedure. Thus, in 1977, a supplementary budget for an amount of 714 million EUA had to be adopted as a result of economic developments and Council decisions on agricultural prices and connected measures. Nevertheless, because of the more favourable economic climate towards the end of the year, the appropriations were not all used and in the end only an amount of 508 million EUA was actually needed.

Comment of the Court of Auditors

The Commission deemed it necessary, in the long introduction preceding its replies, to

describe again the economic and financial system which makes possible the implementation of the support policy for the agricultural markets. It stresses in particular the decentralized nature of the financial management of the 'Guarantee' section at the level of the Member States and emphasizes the fact that the high number (44) of paying agencies does not facilitate the management of Community funds.

The Court notes with interest this observation as it accords with its own thinking. The Court further notes the Commission's statements on the difficulties of budgetary estimates in an area subject to many uncertainties. Nevertheless, the discrepancies established between the estimates and the actual performance are quite excessive.

Reply of the Commission

Reply relating to the problems facing the Court from the delay in the forwarding of supporting documents (paragraphs 2.3 to 2.10):

A distinction should be made between documents relating to advances, to monthly expenditure and to annual declarations for the clearing of accounts.

Advances

Advances involve three kinds of supporting document, namely Commission decisions, global provisional commitments and payment orders to Member States:

The Commission's decisions on advances are currently taken under the 'delegation of powers' procedure. The authorizing officer only receives copies of the Commission's communication to the Member States after the proposals for global provisional commitments and payment orders have been issued so they cannot be attached.

The Commission's decisions on cash advances for the payment of financial expenditure incurred by the EAGGF Guarantee Section have been duly forwarded to the Court of Auditors since its first request.

All provisional appropriations and payment orders are forwarded to the accounting officer for implementation. They are usually meant to

cover expenditure for the month following their registration. The Commission ensures that supporting documents are supplied in the proper way.

Expenditure declared monthly

The expenditure paid by those departments authorized by Member States requires detailed proposals for commitment and orders to clear for payment.

Because of the deadlines for submission by Member States and for processing by the Commission, amounts can only be entered in the Commission's accounts in the fourth month following that in which the expenditure was paid. It has not so far been possible to respect the time-limits laid down in the Financial Regulation for various reasons, chiefly bound up with the failure by the Member States to respect the deadlines, deficiencies in the information supplied and the shortage of staff to scrutinize it.

Attempts have been made to ensure better respect for the deadlines by paving the way for computer processing. This should lead to improvements in 1978 and especially by 1979.

There is a particular problem with the supporting documents in respect of expenditure for the last month of the financial year which should be entered in the accounts by 31 March of the following year at the latest. This deadline is already very tight (Member States can amend their State-aids accounts until 20 February but often overstep this limit) and the application of Article 86 (now Article 79) of the Financial Regulation in these cases could perhaps cause problems for the Court of Auditors too.

Perhaps supporting documents relating to entries made after 31 December but concerning the previous financial year could be sent to the Court of Auditors as they become available without waiting until the end of April.

Annual clearance of accounts

At present, it is impossible for Member States to supply the detailed statements relating to the previous year's expenditure by 31 March. As these statements are on average 6 months late, the Commission has adopted the goal of reducing the delay by 3 months, thus making the

time-limit 1 July — which would be an improvement. The Commission therefore cannot see how the Court could acquaint itself with these documents without some time-lag.

Comment of the Court of Auditors

With regard to advances, the Court notes that the situation described in the report (2.7) has improved and that it is now receiving the supporting documents more regularly. It points out, however, that the documents should be sent automatically every 3 months, in application of Article 79 of the Financial Regulation.

With regard to the expenditure declared on a monthly basis by the paying agencies authorized by the Member States, in respect of which accounting by the Commission depends upon the diligence of the Member States and the auditing resources of the department responsible, the Court notes that in the Commission's view the deadlines laid down by the Financial Regulation are difficult to respect, particularly with regard to the supporting documents relating to expenditure of the last month of the financial year, which must be entered in the accounts not later than 31 March of the following financial year.

Lastly, the Court notes that in the opinion of the Commission, it would be impossible for the Member States to supply by the prescribed date of 31 March, the detailed statements which make possible the audit of expenditure for the preceding year. At present, the average delay is 6 months and the Commission would like to reduce this figure to 3. In the Court's view, this question should be linked to the general problem of the delays in finalizing accounts which are dealt with in the following comments.

Reply of the Commission

The Commission has made the following reply relating to time-limits for clearance of accounts (paragraphs 2.11 to 2.21):

The Commission is perfectly aware of the dangers to which the Court of Auditors points. Delays in clearing accounts are due to the multiplicity of types of expenditure, and its

volume and complexity — these further intensified by monetary factors — and to the extensiveness of Community legislation, the many national departments involved and the shortage of staff, which is particularly marked in this field of Community financial activity. The persistence of delays and the difficulties inherent in catching up within a short time were important factors in the Commission's decision in September 1977, to have an outside consultancy carry out a general review of the working of the EAGGF.

The resulting study, received in May 1978, basically concludes that there is a need for a substantial increase in staff by January 1980 and for an improvement in working methods.

Accounts for financial years since 1967/68

The Commission emphasizes that the delays in closing these accounts are exceptional.

Decisions on aid (for the 1967/68 to 1970 periods) were adopted by the Commission on 20 December 1977, 7 years after the end of the most recent period (1970) and 9½ years after the end of the 1967/68 period. The Council had specified 31 December 1974 (Regulation EEC No 2030/73) as the time-limit for decisions on aid for these periods; consequently the delay is 3 years.

The closing of accounts did not alone take 7 years to 9½: the accounts for 1971 and 1972 were also cleared during this period (decisions of 2 December 1975) and the preparatory stage for the 1973 clearance decisions was also completed. In fact, it was only at the end of 1974 that the files for the 1967/68 to 1970 periods were first examined; work on closing accounts for the four periods took 3 years at the very most even though it was interrupted by other work.

The Court of Auditors and, before it, the Audit Board, have been informed on numerous occasions of the reasons for the delay in closing the accounts. Between 1971 and 1973 the Commission had to carry out important work in connection with the establishment of the system of own resources and the enlargement of the Community; in view of the shortage of staff in the EAGGF departments and the urgency of the abovementioned tasks, serious delay occurred in the closure of the accounts for the periods prior to the introduction of the new system of

financing in agricultural policy; this also explains why — in this exceptional case — the closure and final clearance operations were not carried out in chronological order.

It is true that the present situation leads to a delay in the booking of expenditure (financial years 1971 and 1972) and to the questioning of such expenditure in actions brought before the Court of Justice. On the other hand, as far as the budgetary principles of annuality and speciality are concerned, it should be remembered that the relevant regulations (Regulation (EEC) No 729/70 and the Financial Regulation) provide for a certain degree of derogation from these principles in so far as the differences between expenditure charged to the accounts of a financial year and expenditure accepted at the time of clearance are regarded as additional or lesser expenditure for the financial year in which the clearance took place. The Commission hopes that, in future, the delays will gradually disappear and that cases of dispute will decrease particularly as a result of tighter preventive checks and greater awareness on the part of the Member States — an awareness which is already quite noticeable.

The 3 month time-limit laid down in Commission Regulation (EEC) No 1723/72 (Article 1 (2)) for the submission of clearance documents has proved to be inappropriate in practice for a number of reasons, chief among which is the high degree of administrative decentralization in several Member States and the growing scale of supporting statements and annexes requested by the Commission in respect of an ever-increasing volume and range of expenditure.

The serious backlog in the clearance of accounts has meant that little purpose was served by amending the binding date with effect from the early years of the new system of financing as long as the backlog was not cleared. Consequently, the time-limit is extended to 9 months in practice until such time as the backlog is cleared: once this has been done, the regulations will be amended and the time-limit finally fixed at 6 months.

The Commission would draw the attention of the Court of Auditors to the fact that, even when the statements are submitted within 6 months, experience has shown that it is impossible to clear the accounts during the year following the financial year in question; indeed, given the importance of on-the-spot and documentary checks, the frequent requests for additional information, numerous internal

consultations and the length of procedures, this time-limit is, in practice, extended to 2 years.

The discharge decision by the Budgetary Authority is given with the same reservations as those provided for in Article 97 of the Financial Regulation of 21 December 1977. The discharge given by the Budgetary Authority does not in practice relate to accounts which have not yet been cleared.

Comment of the Court of Auditors

The Commission appears to be aware of the abnormal nature of the delays experienced. It gives undue emphasis to certain explanations on this subject.

The insufficiency of resources, in terms of staff is the reason put forward on several occasions and it is stated to be this which led the Commission to entrust a private consultancy bureau with the task of examining the whole system of operation of the EAGGF. The Court is aware of the results of this study. It was in fact found necessary to increase the staff of those departments of Directorate-General VI which are responsible for the management of the EAGGF. It is pertinent to consider, however, in view of the large sums involved, whether the Commission could not have released from its other departments, the relatively small number of officials required. In addition, the study in question concluded that the improvement of the working methods was at least as necessary as the increase in staff. The Commission hopes that as a result of an increase in the number of preventive measures and greater efforts on the part of the Member States there will be a gradual reduction in the delays and fewer legal disputes.

The Court would obviously be gratified if these hopes were translated into fact but there are grounds for concern regarding other intentions expressed by the Commission. In stating that the delays in the forwarding of files for clearance by certain Member States are in part inevitable owing to the substantial degree of administrative decentralization the Commission appears to have decided to amend the present texts with a view to extending the prescribed time-limit for clearance to one to two years.

The Court must therefore point out that it seems to be up to the Member States to organize their work in such a way as to respect the time-limits to which they are contractually committed and it is not up to the Community to amend its

procedures systematically to accommodate such difficulties. Moreover, the abandoning of clearance at the end of the first financial year after closure is tantamount to withholding discharge to the Commission for its management of the Guarantee Section at the same time as for the rest of its budget. If this was the intention of the budgetary authorities of the Community, the effects on the control — in particular parliamentary control — of expenditure relating to the common agricultural policy, should be considered carefully. In any case, the amendments envisaged seem to touch upon the area covered by Article 209 (a) of the Treaty which implies referral to the Court for an opinion. In this case the Court will not fail to confirm its opinion on this point.

Reply of the Commission

The Commission has made the following reply relating to the implementation of the budget in 1977 (paragraphs 2.25 to 2.64):

Transfers in respect of the EAGGF Guarantee Section are made pursuant to Article 101 (2) (former Article 113) and not pursuant to Article 21 (3) of the Financial Regulation.

Under the terms of the Financial Regulation, the Commission must submit proposals for the transfer of appropriations before 1 March. This deadline is difficult to meet for the following reasons:

- (a) only the declarations submitted by Member States reveal the extent to which appropriations have been utilized;*
- (b) the deadline for such declarations is 20 February;*
- (c) some declarations arrive even after this date.*

Commitments and authorizations are sent to the accounting officer before 1 April but are individually approved subject to the Council Decision on transfers. If the transfers are approved, the stamp of approval becomes final. If the transfers are rejected, the approval no longer holds good and the accounting documents are cancelled. The only alternative would be to book the most recent commitments to the following financial year against the appropriations carried forward. However, the carry-over system has its own deadlines (likewise 31 March in the case of automatic carry-overs) and the Commission believes that any procedure whereby a large proportion of the expenditure paid would be booked each year the following

financial year would adversely affect the transparency of the budget.

The proposed carry-over concerning refunds for Community food-aid programmes for previous years was forwarded to the Council a little over a month after the statutory deadline of 1 May, owing (a) to delay in the submission by Member States of EAGGF Guarantee Section accounts which affected the calculation of appropriations available, and (b) to the heavy workload of the departments concerned during May 1977.

With regard to the non-automatic carry-over in respect of the use of the revenue under the co-responsibility arrangements, the main reason for the delay in forwarding documents to the Council is the date laid down for closing the accounts to the Guarantee Section (31 March) which almost automatically leads to difficulties in meeting the 1 May deadline for presenting non-automatic carry-overs to the Council: this time limit of one month is often too short in practice to allow the various departments involved in drawing up the proposal for non-automatic carry-overs to carry out their administrative and control functions.

It should also be borne in mind that the statement of revenue and expenditure drawn up on 1 June contains all the relevant information about the non-automatic carry-overs awaiting Council approval. Mention is made in each case that they are entered 'subject to Council approval'. Once the decision has been taken by the Council, the statement of revenue and expenditure is amended accordingly.

With regard to the implementation of the budget, it may be recalled that the distinguishing of so-called 'dual exchange rate expenditure', and its entry under Title 4, arise from a Parliamentary amendment to the 1978 budget. This expenditure was previously entered under Article 790 (1977 budget). For 1979, the draft budget no longer includes dual-rate expenditure separately: it is incorporated in each budgetary entry. The problem of identifying the dual rate was therefore transient and the questions raised in the Court of Auditor's report are answered by the changes in budgetary presentation for 1979.

The Commission cannot accept the exaggerated remarks about cash advances; such advances are made in anticipation of forthcoming expenditure by paying agencies in the Member States.

The automatic carry-overs relating to appropriations for payment earmarked for first-category payments booked to AIMA where the source operation has been established arise

from amendments and corrections which have to be made regularly whenever a more thorough check — particularly on-the-spot — has been made.

In these circumstances, expenditure is committed in detail but is automatically carried forward to the following financial year, thus allowing any necessary adjustments arising from the implementation of the carry-over procedure to be made. This procedure is in fact an exception to the principle of annuality for which provision is made in the Financial Regulation.

Comment of the Court of Auditors

It is true, as stated in the Commission's note, that the transfers of appropriations are carried out within the time-limits laid down in Article 101 (2) of the Financial Regulation. The Commission stresses, however, yet again, that the prescribed deadline is difficult to respect. It also admits that the deadlines for the non-automatic carry-overs are not observed either and that consequently the statement of revenue and expenditure drawn up on 1 June is not final and remains subject to revision.

If these statements are taken in conjunction with preceding comments on the deadlines for forwarding supporting documents and the deadlines for clearance, one may wonder if it is not the whole system set up under Regulation (EEC) No 729/70 and adopted in the Financial Regulation applicable to the general budget which is being questioned. It is surprising that the replacement of the Financial Regulation of 1973 by that of 21 December 1977 was not accompanied by a complete overhaul of an instrument which today appears largely inapplicable. At the time and under the conditions when the Court was asked to deliver its opinion on the new text, it is obvious that it was not possible for the Court to deal with this matter as it would have wished.

It has, however, had the opportunity of underlining the importance of producing a reliable account of revenue and expenditure by delivering on 27 July 1978 its opinion on the draft amendment of Article 6 (3) of the Financial Regulation on the deadlines for non-automatic carry-overs: it stressed that to extend by 4 to 6 weeks the deadline for tacit approval of the requests for carry-overs made by the Commission would only result in shifting the final date of approval beyond 31 May, a deadline which is laid down in Article 73

relating to the revenue and expenditure account. This general observation is exemplified in the practice of carry-overs in respect of the EAGGF Guarantee Section.

The Commission was surprised that the Court had used the words 'too much latitude' in its conclusions on the management of the liquid assets of the EAGGF Guarantee Section (2-63). On this point the Court can only refer to its comments, which in its opinion are sufficiently numerous and specific to wholly justify the appraisal given.

FRAUDS AND IRREGULARITIES

General comments

2.65 The Court has an interest in the application of Regulation (EEC) No 283/72 of 7 February 1972 ⁽¹⁾ 'concerning irregularities and the recovery of sums wrongly paid in connection with the financing of the common agricultural policy, and the organization of an information system in this field'.

2.66 The implementation of the provisions of this Regulation assumes cooperation between the Member States and the Commission in a certain number of areas:

- (i) notification of cases of irregularities (Article 3 and Article 5),
- (ii) information about fraudulent practices (Article 4),
- (iii) requests to the Commission for official (Article 6) or unofficial enquiries (pre) Article 6 procedure),
- (iv) reciprocal information and research into loopholes in the Regulations in the framework of 'EAGGF irregularities' working group (Article 7).

2.67 The analysis of the cases of which the Member States informed the Commission in 1977 showed, in comparison with the preceding year, a decrease in the number of cases declared but an increase in the sums involved.

1976: 257 cases — 5 984 664 u.a.

1977: 169 cases — 8 539 419 u.a.

⁽¹⁾ OJ L 36 of 10. 2. 1972.

2.68 The number of cases relating to monetary compensatory amounts showed a decrease although the sums remained practically the same:

1976: 148 cases — 2 798 563 u.a.

1977: 81 cases — 2 749 865 u.a.

2.69 This was also the situation regarding the sums recovered up to 31 December in respect of the cases declared during the year:

1976: 89 cases — 1 664 465 u.a.

1977: 45 cases — 1 580 188 u.a.

2.70 Clearly, these changes over such a short period cannot indicate either the real extent of fraud or the degree of care devoted by the Member States to prevent or curb it. A thorough analysis will be necessary before any opinion can be formed on these matters.

Specific comments concerning 1971 to 1976

2.71 The Court nevertheless wishes to draw attention to the following facts about the cases relating to the years 1971 to 1976.

2.72 From 1971 to 1976, the Commission was informed of 560 cases of irregularities involving a total sum of 24 965 238 u.a. In 289 of the cases, the sums improperly paid have been recovered: 13 216 360 u.a. Thus there remains 11 748 878 u.a. still to be recovered in 279 cases: one of these cases dates back to the year 1971 (207 211 u.a.), 6 cases to 1972, 14 cases to 1973, 47 cases to 1974, 58 cases to 1975 and 153 cases to 1976.

In most of these cases, legal proceedings are still going on; in others, the Member States say that they have sought reimbursement.

This situation calls for the following comments:

2.73 As to irrecoverable sums relating in particular to Comment No 74/g (p. 111) by the Audit Board ⁽¹⁾, the Commission agrees that some amounts have become irrecoverable, but without any of them having so far been declared as such within the terms of Article 24 (2) of the Financial Regulation.

2.74 In its reply, the Commission stated: 'It is true that the Commission should submit proposals on the subject of the accounting for sums resulting from irregularities which have been established as definitely irrecoverable. The absence of proposals from the Commission is due to the lack of staff sufficient to carry on the attack on fraud.'

2.75 The argument about not having enough staff may hold for a specialized department, but not for the Commission. The question raises the much more important problem of the interpretation of Article 8 (2) of Regulation (EEC) No 729/70 and thus of the exact definition of the respective financial responsibility of the Commission and the Member States.

2.76 Article 8 (2) reads: 'If recovery is not made in full, the financial consequences of fraud or negligence in the financial management of the common agricultural policy shall be borne by the Community, with the exception of those attributable to fraud or negligence in the administrations or agencies of the Member States.'

2.77 The Court recognizes that this is an area in which it is difficult to achieve precision in the wording of regulations, but Article 8 (2) seems to contain the seeds of dispute as to where responsibility lies. It seems possible that it could give rise to actions before the Court of Justice and, to avoid this, the rewording of the Article might be considered with a view to eliminating ambiguity.

2.78 As to mutual assistance between Member States, there is cause for concern about the operation of Council Directive 76/308 of 15 March 1976 ⁽²⁾ under which the Member States have an obligation to offer mutual assistance in effecting recoveries and to inform the Commission of it. The measures provided for in this Directive were due to enter into force by 1 January 1978 'at the latest'.

2.79 The 'Committee for Recoveries' which is chaired by a representative of the Commission, (as laid down in Article 20 of Directive 76/308), has been set up and its work has resulted in the approval of a second Council Directive 77/794 of 4 November 1977 ⁽³⁾ designed to establish the working arrangements for applying the first Directive. There is reason to believe that the date of 1 January 1978 set for the entry into force of the national measures will not be respected by all the Member States.

⁽¹⁾ Report on the accounts for the financial year 1976.

⁽²⁾ OJ L 73 of 19. 3. 1976.

⁽³⁾ OJ L 333 of 24. 12. 1977.

Distortion of trade in the durum wheat market

2.80 The Court has devoted some time to the examination of certain distortions of trade in the durum wheat market ⁽¹⁾.

2.81 The monetary compensatory amounts applicable to the trade in this product having been abolished in August 1974, the situation in the market developed in such a way that, at the beginning of 1977, several operators had begun to be assured of making profits by importing durum wheat into the United Kingdom and then re-exporting it to the Netherlands. During the first 11 months of 1977, an estimated 52 000 tonnes followed this roundabout route.

2.82 To illustrate the financial importance of these operations, the situation on 12 November 1977, to which the figures below refer, has been chosen at random, but the order of magnitude shown by so doing is of some significance. On this date, the levy on import into the United Kingdom was approximately £70/tonne, while the levy on import into the Netherlands was, expressed in the same currency, about £92/tonne. The gross total profit made by the operators was thus in the region of £1 150 000, i.e. 2 000 000 u.a., at the 'green rate' then applicable. The proceeds of the levies accruing to the Community have consequently been reduced by an equivalent amount (less the 10 % which would have been retained by the Member State for collection costs).

2.83 The Commission was aware from 1976 of the risks involved by the loophole in the provisions in force and proposed at that time to reintroduce monetary compensatory amounts (MCAs) in the durum wheat market. The rules to give effect to this concept were approved by the relevant management committee at the end of 1977. On 25 November 1977, Regulation (EEC) No 2604/77 ⁽²⁾, to come into effect on 2 January 1978, reintroduced MCAs for durum wheat and products derived from it. Shortly afterwards, Regulation (EEC) No 2792/77 ⁽³⁾ of 15 December 1977 and Regulation (EEC) No 2917/77 ⁽⁴⁾ of 28 December 1977 laid down a number of transitional measures. After the first weeks of 1978, the three-way traffic in durum wheat via the

United Kingdom, then the Netherlands, ceased to be profitable for the operators.

2.84 The trade described above did not result in an increase in EAGGF expenditure. Nor was the total of the sums made available to the Community affected. The transactions did, however, lead to a change in the shares of the financial contributions of the Member States.

2.85 The total agricultural levies collected by the United Kingdom was higher than it otherwise would have been, by an amount equal to (£70 × 52 000) and the total agricultural levies collected by the Netherlands was reduced by an amount equal to (£92 × 52 000). The difference between these two amounts can be looked on as a transfer of a burden from those importing from third countries (or, in a way difficult to calculate, from consumers in the Community) to the budgets of the Member States. The Community finances were compensated by recourse to corresponding amounts of financial contributions from the Member States (excluding, in 1977, Ireland and the United Kingdom).

2.86 The fact that the levy which was paid (£70/tonne) was upon entry into the United Kingdom instead of when the wheat reached the Netherlands meant that there was a reduction in the levies recorded in the Netherlands which should have accrued to the Community, and an increase in the levies recorded in the United Kingdom.

This increase did not affect the total sum paid by the United Kingdom to the Community, because of the limitation in the British share in the 1977 budget. It was the increase in the financial contributions of the Netherlands, and possibly of other Member States, which restored the balance.

2.87 As a final result, an amount of about 2 000 000 u.a. has been transferred from the heading 'levies' to the heading 'financial contributions' in the accounts for revenue. As stated in paragraph 2.82, this is an order of magnitude and not an exact calculation.

2.88 A distortion of trade of this nature is commonly called fraud. In fact, it is rather a question of operators exploiting a loophole in Community legislation. In such a case, the only remedy is to amend the legislation. It is not possible to take action against the operators who have not committed any crime. Article 7 (4) of Regulation EEC No 283/72 concerning fraud sets out formally that, in a similar situation, consultation can be arranged at the request

⁽¹⁾ At the same time Commissioner Tugendhat wrote to Mr Dalyell, Member of the European Parliament, in response to questions raised by Mr Dalyell on this subject.

⁽²⁾ OJ L 302 of 26. 11. 1977.

⁽³⁾ OJ L 321 of 16. 12. 1977.

⁽⁴⁾ OJ L 340 of 29. 12. 1977.

of one of the Member States concerned or of the Commission.

2.89 By introducing Regulation (EEC) Nos 2604/77, 2792/77 and 2917/77, the Community institutions finally adopted measures designed to put an end to this distortion of trade described. The Court of Auditors has noted these matters, and has no amendments to suggest about the way the market is now organized. It points out, however, that it took nearly 2 years for the competent Community institutions to put themselves in a position to fill a recognized gap in the regulations. This time-lag must be regarded as excessive.

Reply of the Commission

The Commission has made the following reply to the comments made by the Court (paragraphs 2.73 to 2.89):

In answer to the criticism that none of the sums which had become definitively irrecoverable have been officially cancelled in accordance with Article 24 (2) of the Financial Regulation of 21 December 1977: the former Financial Regulation which was still in force in 1977 simply required that Financial Control be informed (Article 23 (2)).

In connection with the actions brought against the clearance decisions for 1971 and 1972, the Court of Justice has been asked to clarify the scope of Article 8 (2) of Council Regulation (EEC) No 729/70 concerning the sharing of financial responsibility between the Community and the Member States. If necessary, the wording of this Article could be given greater clarity as part of a general revision of the provisions of the abovementioned Regulation in the light of the experience gained since its entry into force. According to information received by the Commission pursuant to Article 25 of (EEC) Directive 76/308, the requisite measures to comply with this Directive were taken by Denmark, Italy and the United Kingdom. The Commission departments responsible are not aware of any cases where the delayed implementation of this Directive has given rise to recovery difficulties. It has been agreed that any application for assistance made after 1 January 1978 to the competent authorities of the Member State concerned is to be dealt with by the latter authorities. The Commission will take the necessary steps to ensure that the Directive is implemented by the Member States as soon as possible.

Comment of the Court of Auditors

The Court accepts the Commission's reply concerning the financial year 1977 (paragraph 2.73).

The Court notes that the Commission shares its views on the need to amend Article 8 (2) of Council Regulation (EEC) No 729-70.

The Court takes note of the Commission's reply. Like the Commission the Court hopes that the Member States will take the steps required to implement EEC Directive 76/308 as soon as possible.

Reply of the Commission

The Commission has made the following reply relating to the distortion of trade in the durum wheat market:

The problem of deflection of trade in the durum wheat sector cannot be dealt with in isolation but must be seen in a more general context of the situations of the basic product and its derivatives. The abolition of the monetary compensatory amount in August 1974 affected not only flows of durum wheat but also trade in processed products, in particular pasta products. In April 1976, the main argument in support of the proposal to reintroduce the monetary compensatory amounts was the increase in Italian supplies of pasta to the other Member States. As far as durum wheat was concerned, the problem of deflection of trade did not exist at this time. The conclusion of the Court of Auditors 'that it would take nearly 2 years before this glaring loophole in the regulations could be plugged' cannot, therefore, be accepted.

In actual fact, deflection of trade in the durum wheat sector did not occur until 1977. Then the Commission became aware that certain market operators were speculating on the difference in the value of the British and Dutch currencies. The British Government was immediately requested to hold an enquiry to assess the scale of the existing trade. Furthermore, the Commission decided — on economic grounds — to re-introduce monetary compensatory amounts in the durum wheat market. It must be stressed that this decision could not be taken before its economic and financial consequences had been considered.

Comment of the Court of Auditors

As the Court has already pointed out, the Commission has since 1976 been aware of a major risk of distortion of trade in the durum wheat market due to the absence of monetary compensatory amounts. The Court can only reaffirm its observation by stressing that it in no way represents a criticism of the Commission, but that it testifies to an excessive slowness in the decision-making processes at Community level. To be effective, the battle against distortion of trade presupposes the possibility of immediate reactions.

TENDERS

Tenders for public stocks of cereals

2.90 The present organization of the majority of the agricultural markets leads to the build-up of public stocks of agricultural foodstuffs, for which both marketing costs (possible losses on sale) and management costs (storage, processing and financial charges) are borne by the EAGGF.

2.91 In 1976 these various costs amounted to 482 095 846 u.a. in commitments and 472 574 743 u.a. in payments, — in other words nearly 10 % of total EAGGF expenditure.

2.92 The magnitude of these sums shows that to minimize the cost of managing the agricultural markets it is obviously advisable to study carefully the way in which stocks are sold. The procedure laid down for sale by tender is set out in Regulation (EEC) No 376/70 ⁽¹⁾ of 27 February 1970 on cereals.

SALES ON THE INTERNAL MARKET

2.93 An intervention agency, which is in a position to issue an invitation to tender under Regulation EEC No 376/70, must abide by the following rules:

- (i) notification to the Commission concerning the issue of an invitation to tender on the occasion of each sale;
- (ii) publicity to be given in inviting tenders to ensure competition;
- (iii) observance of two minimum prices (a) 'derived' intervention price applicable to the place at

which the goods are sold, increased by a flat-rate sum (1.5 u.a./tonne for cereals); (b) local market price at the date of the invitation to tender;

- (iv) if the goods are stored elsewhere than in a recognized marketing centre or are sold at a marketing centre other than where they have been stored, the transport costs are taken into account in calculating the minimum selling price. In the second case the purchaser is reimbursed for a part of these expenses.

Against this background, the following points call for special attention.

Procedure for invitation to tender

2.94 The publication of invitations to tender is left to the initiative of each Member State, and thus carried out according to very different practices. The Commission must be reminded of the need to coordinate practices, in particular with regard to:

- (i) the time-limits for the submission of tenders;
- (ii) publications that advertise the invitations to tender (Community citizens who are resident in another Member State than their own are often not aware of the existence of such publications).

It appears that so far the Community has not concerned itself with this problem.

Level of selling prices

2.95 Once the minimum selling prices have been determined, each intervention agency is free to fix the basic price for the invitation to tender, provided that it is higher than the minimum price (intervention price + 1.5 u.a./tonne) and that it corresponds to the price on the local market. It is obviously in the Community's interest that this basic price is as high as market conditions will allow. For this, the intervention agencies should adopt a 'commercial approach'.

2.96 The losses resulting from the difference between the purchase price and the selling price being supported by the Community budget, the intervention agencies have no incentive to take such a line. Furthermore, the Commission has few means of checking whether the basic price fixed is 'really the highest possible. This would assume powers of verification which it does not possess, and time-limits

⁽¹⁾ OJ L 47 of 28. 2. 1970.

for carrying out these checks which can have no relevance to those it has for clearing the accounts.

Attention must therefore be drawn to the absence of controls on this point and to the gaps in the regulations.

Calculation of transport costs

2.97 Article 3 (2) of Regulation (EEC) No 376/70 only lays down the broad lines of this calculation, which in detail is left to the care of the Member States. The Commission states that the methods of calculation used differ. The results have been subject to Community checks in France and Italy. The checks are not carried out until the clearing of the accounts, i.e. at a very late stage.

The attention of the Commission is directed to the need to carry out these checks more systematically and as soon as possible after the transactions to be inspected have been completed.

SALES FOR EXPORT

2.98 The procedure for launching an invitation to tender in such a case leaves the decision to the Management Committee which applies a common rule:

In short:

- (i) The Member State submits a request specifying the quantity and describing the product.
- (ii) The Management Committee expresses an opinion on a proposal from the Commission. It is to be assumed that the negotiations between the Commission and the Member State(s) concerned have reached a point before the Management Committee meet for the vote, when it is cast, to become a formality.
- (iii) At a later stage, once the invitations to tender have been issued, bids from tenderers in the Member States are forwarded weekly to the Management Committee, which expresses an opinion on them.

2.99 Only the decision to launch an invitation to tender is published in the Official Journal of the European Communities. The procedure for this is arranged by the Member States, which must above all keep to:

- (i) the maximum quantity fixed in the initial invitation to tender;

- (ii) a minimum price, fixed weekly by the Management Committee, but not published.

2.100 The intervention agencies are to take all appropriate steps to transmit this information on the opening of a tender to interested parties. The only obligation imposed is that there must be a time-limit of 10 days between the date of advertising and the initial receipt of submissions. This time-limit is stipulated in the Commission Decision.

2.101 In fact in many cases there is no publicity in the strict sense of the term. For example, a circular may simply be sent to the contractors who normally deal with the intervention agency, thereby restricting access to the offer to those large firms which have close links with each intervention agency.

2.102 It seems, too, that the Commission's departments are not aware of the practices followed by the intervention agencies in the different Member States and do not review these practices in a systematic way. Such a review is essential for checking whether the conditions of open competition have been fulfilled (advertisement, time-limits, etc.).

2.103 Unless a more or less centralized list is drawn up of the publications in which the intervention agencies can make known their invitations to tender, and unless the list is widely distributed, this knowledge will not be available. This list should include publications in a number of Member States, and be compiled in several languages. It would undoubtedly be to the Community's advantage to increase the number of firms interested in tendering.

2.104 It seems clear also that the time-limit of 10 days, which is not always observed, is insufficient for all interested parties to take part in the first opening of the tendering. This is a particularly important factor commercially.

2.105 The successful tenderer obtains an export licence which is valid for a maximum of 5 months from the date of the award of the tender, and which provides for the advance fixing of a refund for a stated period. If the goods are not withdrawn by the operator in the month in which the contract is awarded, the price he must pay for removing the goods is increased, every month, by a sum which is at least equal to the monthly increase in the intervention price. At the same time, the amount of the refund is also subject to the monthly increase, since it varies with the target price. This parallel movement follows automatically from the practice of providing in advance for refunds.

2.106 The successful tenderer is thus not affected by delay. It appears that the option of fixing the monthly increase at a figure higher than the increase in the intervention price has never been used.

2.107 If the purchaser delays, the additional storage expenses are, in the last analysis, borne by the EAGGF. If, on the other hand, he takes the goods immediately, he pays the fixed price and bears directly his own storage costs. He then receives an increase in his refund. If his private storage costs exceed the monthly increases in his refunds, he therefore has an incentive to leave his goods in public storage.

2.108 To remedy this situation it would consequently be advisable:

- (i) to lay down quite short time-limits for the removal of goods, in the invitations to tender;

- (ii) to make the purchaser responsible for at least part of the storage costs, in order to encourage him to remove his goods more quickly.

2.109 In the case of cereals, the intervention agency reimburses the purchaser transport costs between the place of storage and the nearest port of shipment on the most favourable terms. The port is selected from a list attached to the invitation to tender.

2.110 The Commission relies on the Member States to check on the correct application of this provision, because under the present system of carrying out checks, these matters are not investigated until after the accounts have been cleared.

2.111 The period required for carrying out the whole of the procedure is extremely long, sometimes as much as a year. The examples below, chosen at random, illustrate this statement:

Table 7

Reference number	Request from the Member State	Decision to invite tenders	Publication in the OJ of the EEC	Closing date for tenders
D 75 412	11. 6. 1975	24. 6. 1975	10. 7. 1975	1. 6. 1976
D 76 285	27. 1. 1976	26. 2. 1976	9. 3. 1976	28. 7. 1976

2.112 These intervals may be still further extended by agreement between the Member States and the Commission. This problem needs to be emphasized because any intervention in agricultural markets must be carried out rapidly, so that:

- (i) it is efficient (e.g. in its effect on the market and on income . . .);
- (ii) for the results sought, it involves the minimum Community financing.

In addition, given the present conditions, the Commission ought to consider the setting up of a more appropriate decentralized system.

2.113 It is obviously still necessary to determine whether the prices obtained under the various tenders are the highest possible, having regard to international market conditions.

To this end, the Commission has regularly compared the world market price and the fob price of the product (minimum price + fob expenses — refunds). This method, which must take into account the final destination of the goods, hardly ever allows time for a decision to postpone or cancel the tender accepted.

This is an area which the Court has not yet been able to explore, because of its complex character and the changing nature of the factors to be considered.

Tendering for export refunds

2.114 The method of tendering is used to determine export refunds, in particular when certain external markets become inaccessible because the normal level of refund is too low. This is the case when another exporting country concentrates its commercial efforts

to securing a market in any particular country and undermines the traditional markets of the Community.

2.115 The procedure for tendering, laid down in Regulation (EEC) No 279/75 of 4 February 1975 ⁽¹⁾, allows the outlay to be limited to the amount which satisfies the lowest bidder. It was used 6 times in the cereal sector from 1 January 1975 to 1 September 1977. The authority to issue invitations to tender is given by the Commission, after consultation with the competent Management Committee. It sets out the conditions to be observed, e.g. export areas, quantities and length of the procedure, etc.

2.116 The tenders which are submitted weekly by the intervention agency are examined by the Management Committee.

2.117 After studying the conditions under which this procedure is operated, the following criticisms can be made:

- (i) There is no guarantee of further publicity for the issuing of tenders in the Member States, with the exception of France. A single announcement is made in the Official Journal of the European Communities.
- (ii) The period of 15 days (Regulation (EEC) No 279/75, Article 1) between the publication of the notice of invitation to tender and the first date fixed for the submission of tenders is not always respected. This was the case, for example, for Invitation to tender 1931-77, relating to cereals, which was published in the Official Journal of 30 August 1977, but bids could be made on 8 September.
- (iii) It is clearly important to examine, not only the maximum refund, but also all refunds accepted. The EAGGF departments, however, do not appear so far to have been particularly inclined to make use of the detailed list of these operations.

Reply of the Commission

Reply relating to the tender for public stocks of cereals: sales on the internal market (paragraphs 2.93 to 2.98):

An intervention agency is required to sell goods by issuing invitations to tender. Its freedom of action is principally limited to deciding the date on which invitations to tender are to be issued and the quantities to be sold. The sales must be made in compliance with the provisions of Article 3 of Regulation (EEC) No 376/70, i.e. a price level commensurate with the local market price. The intervention agency is thus subject to market conditions and it must therefore act commercially with the sole restriction that it cannot accept offers which are less than the intervention price plus 1.50 u.a./tonne.

An intervention agency offers intervention cereals for sale on the internal market by issuing invitations to tender; it is free to decide when such tenders are issued. In accordance with Regulation (EEC) No 376/70, it is therefore bound by the following rules:

- (i) notification of the Commission of the issue of an invitation to tender and thereafter of each sale;*
- (ii) publication of invitations to tender to ensure that there is competition;*
- (iii) Observance of the local market price and rejection of any offers below the intervention price plus 1.50 u.a./tonne (minimum price).*
- (iv) If the goods are stored elsewhere than in a marketing centre or — in exceptional cases — are sold in a marketing centre other than the one where they are stored, transport costs are taken into account in calculating the minimum selling price. In the second case, the purchaser is reimbursed part of these costs.*

Comment of the Court of Auditors

The expression 'commercial approach' used by the Court with regard to the intervention agencies, is simply intended as a reminder that the latter must constantly bear in mind when effecting sales the need to minimize Community expenditure. Even if Regulation (EEC) No 376/70 does not expressly specify this objective, there is a general principle of sound financial management involved, whose application the Commission should endeavour to supervise.

The Court notes, on the other hand, that no reply has been given to its comments in paragraphs 2.94 and 2.97.

⁽¹⁾ OJ L 31 of 5. 2. 1975.

Reply of the Commission

Reply relating to the tenders for public stocks of cereals: sales for export (paragraphs 2.98 to 2.110)

In the cereals sector, the tendering procedure is as follows:

At the request of a Member State, a decision may be taken to invite tenders for export of goods. If the Commission accepts this request, it submits a draft decision to issue an invitation to tender to the Management Committee which takes a formal vote on the matter; the decision specifically lays down the quantities involved and the storage areas. The decision is published in the Official Journal of the European Communities and is thus brought to the attention of all interested parties.

Between the date of this publication and the first date of submission of tenders there is a time-limit of 10 days to be observed by the Member State handling the tendering procedure.

Since the only form of tender adopted is the standing invitation to tender, there are various dates for submission which can span several months depending on the market situation. These dates together with other additional provisions are laid down by the Member State concerned in the invitation notice. The tenders submitted are processed by the national departments responsible and forwarded to the Commission which, after receiving a formal opinion from the Management Committee, decides either to accept or reject them. Acceptance takes the form of the fixing of a minimum price which leads to the acceptance of all the tenders at this level or higher. The Member State is required to notify tenderers of the outcome of their submissions but not of the minimum price (which is not published!).

If the contract is awarded to an operator he must pay the price stipulated by it. Where the cereal consignment is removed by the operator after the month in which the contract was awarded, the price to be paid is increased automatically by a sum which is at least equal to the monthly increment. The same increase applies to the refund fixed in advance when the tenders are submitted.

The Management Committee always take a formal vote on Commission proposals. Once the invitation to tender has been issued, the tenders are forwarded to the Management Committees

which, in practice, gives its opinion on a Commission proposal for laying down a minimum price or rejecting the tenders.

Once the procedure for the opening of an invitation to tender has been laid down by the Member States, the intervention agencies are required to inform the parties concerned of the results of their bids.

The Commission would like to know of any practices 'restricting access to the offer' referred to by the Court of Auditors. The Commission would point out that it has not as yet received any complaint about the publication of an invitation to tender and that, although no systematic review is made of the practices observed, it is generally aware of them. The idea of distributing a list of publications in which the intervention agencies can make known their invitations to tender seems sound. The Commission has not received any complaints about the absence of such a list.

The time-limit of 10 days for the submission of tenders allows for the trade to be informed and involve them in deals on the world market as quickly as possible. Purchases and sales of cereals are conducted by telephone and Community procedures cannot afford to be too slow.

What happens in fact is that the tenderer obtains an export licence, which fixes the refund in advance, and whose validity may vary depending on the arrangements envisaged. If the contract goods are collected by the purchaser after the month in which the contract is awarded, the price to be paid must be increased, every month, by a sum which is at least equal to the monthly increase. At the same time, the amount of the refund is also subject to this monthly increase.

Moreover, the EAGGF does not bear the additional storage costs caused by protracted intervention storage. The purchaser pays the intervention agency a sum equal to the monthly increase to cover storage costs. Protracted storage by the intervention agency might be discouraged by increasing the amount to be paid by the purchaser. However, the conditions of delivery would then be less favourable to the purchaser who would certainly take account of this in his offer price.

The period required for carrying out the entire procedure is often long because standing invitations to tender are made, spread over several months, and tenders are very often rejected as being too low. Standing invitations to

tender are not inefficient even if they are valid for as long as 12 months. The procedure is decentralized because each Member State is responsible for publishing the notices and contacting the purchasers. The Commission thus decides on the tenders without knowing the firms which have submitted them.

Comments of the Court of Auditors

2.98 to 2.103

The Court stands by its Comment No 2.101. Owing to the small number of firms in Europe dealing in the international trade of cereals, it is necessary to supervise very closely the actual conditions in which the information on tenders is distributed. The Court notes with satisfaction that the Commission is considering the idea of distributing a list of publications in which the intervention agencies will publish requests for tenders. In any event, the absence of complaints cannot be viewed as the sole criterion of the proper functioning of the system. The Court draws the Commission's attention to paragraph 2.102: a systematic inventory of the practices followed within the Member States is necessary.

2.104

While the Court remains convinced that the relatively short period of 10 days would be advantageous for the most important operators, it recognizes the need for Community procedures to be reasonably quick. The question of time-limits is moreover related to that of publicity and the Court reserves the right to make a more detailed overall examination at a later date of the practical conditions whereby the various operators are ensured equality of access at European level.

2.105 to 2.108

The Court also confirms its comments on the financial consequences, for the EAGGF, of the practices relating to storage. It is true that the operator pays the intervention agency a sum equal to the monthly increase, which is deducted from the contribution requested from the EAGGF by way of the difference between the purchase price and selling price of the goods stored. But the EAGGF pays as compensation to the same agency a sum exceeding the monthly increase in respect of the storage and

financing expenses incurred by the agency for goods sold.

For common wheat for example, the figures are as follows:

	1975/76	1976/77	1977/78
Amount of the monthly increase (u.a./tonne)	1.40	1.42	1.46

	1976	1977
Amount paid by the EAGGF (u.a./tonne)	1.55	1.62 ⁽¹⁾

⁽¹⁾ 1.62: 0.75 storage costs + 0.87 financing costs.

The difference between the two sums thus represents an additional unjustified charge for the EAGGF, since the goods no longer belong to the Community.

Since Regulation (EEC) No 376/70 provides for the opportunity of applying an increase higher than the monthly increase to the quantities sold, one may suppose that it would be sufficient to bring this up to the level of the compensation paid by the EAGGF.

The Commission's fears about the level of prices offered by the tenderers under such conditions may possibly be exaggerated

2.109 and 2.110

The Commission did not reply to comments 2.109 and 2.110.

Reply of the Commission

Reply relating to the tendering for export refunds on cereals (2.117):

The purpose of tendering is to ensure a better spread in time of export licences (and stability on the markets) and, if necessary, enable quantitative checks to be made.

The procedure for invitations to tender is laid down in Regulation (EEC) No 279/75. It was used 6 times in the cereal sector from 1 January 1975 to 1 September 1975. The sanction to issue invitation to tender given by the Commission, after consultation with the competent Management Committee, sets out the conditions to be followed, i.e. export areas, quantities, the pre-determined period of validity of the export licences, the amount of the security and the length of the procedure.

Articles 4 and 5 of Regulation (EEC) No 279/75 lay down that:

- (a) tenders must be examined by the competent authorities of the Member States;*
- (b) the tenders must be communicated in an anonymous form and without delay to the Commission;*
- (c) on the basis of the tenders submitted, the Commission, acting under the Management*

Committee procedure, must fix a maximum export refund or not make an award. If a maximum export refund is fixed, a contract is awarded to any tenderer(s) whose tender is equal to or less than the maximum refund.

It is clear from the above provisions that the maximum refund is laid down by an official legal act which is published in the appropriate organ, the Official Journal of the European Communities. The Commission checks that the declared refund expenditure is within the limits it has set.

Comment of the Court of Auditors

The Court regrets that the reply given by the Commission to its comment 2.117 is purely a token answer. It has not in fact replied to any of the specific criticisms on publicity in the Member States or on the non-observance of the statutory deadline of 15 days in one case quoted.

Chapter 3 — EAGGF Guidance Section

INTRODUCTION

3.1 Within the framework of the financing of the common agricultural policy the EAGGF Guidance Section provides aid for the financing of measures taken in order to achieve the objectives laid down under Article 39, paragraph 1 (a) of the Treaty (to increase agricultural productivity by promoting technical progress and by ensuring the rational development of agricultural production and the optimum utilization of the factors of production, in particular labour).

3.2 In this connection Council Regulation No 17/64 of 5 February 1964 set up a system of financial support for individual investment projects to improve agricultural structures. Only those projects fulfilling certain conditions qualify for Community financing, which takes the form of capital grants usually of a maximum of 25% of the amount of the investment. The beneficiary must also contribute a minimum percentage and the balance is to be met by the Member State.

3.3 Implementing regulations lay down the procedures to be followed for the submission of

requests for aid, for the granting of subsidies and for the forwarding of all documentary evidence necessary for compliance with the prescribed conditions.

3.4 For many years individual projects comprised the majority of the measures undertaken by the EAGGF Guidance Section, even when after 1966 the Council was called upon to finance a series of specific measures directed towards specific interventions.

3.5 A new element in the Guidance Section was introduced by Regulation No 729/70, which gave priority to the financing of the common measures aimed at realizing the objectives laid down in Article 39, paragraph 1 (a) of the Treaty.

3.6 The Member States themselves are responsible for implementing the common measures and granting the aid, either directly on the basis of Community regulations or in accordance with the provisions laid down by laws, regulations or administrative action pursuant to directives. The Fund reimburses the Member States for the part of the expenditure eligible for assistance. Under this system of *a posteriori* reimbursement the Community's financial contribution varies between 25% and 65% according to the measures and regions concerned.

FINANCIAL MANAGEMENT

1977 appropriations

3.7 For the first time in 1977 Title 8 of the EAGGF Guidance Section of the budget contained dissociated appropriations, i.e. separate appropriations for commitments and payments. This system, laid down by Council Regulations Nos 76/892 and 76/919 (OJ L 333 and L 362, 1976) permits budget estimates to be drawn up taking account of the periods of time which usually elapse between commitment decisions and actual payments.

3.8 In 1977 the sum of commitment appropriations remained unchanged in relation to the previous years at 325 000 000 u.a. On the other hand, in 1977 only 157 800 000 u.a. in payment appropriations, were provided to meet these

commitments, the balance to be paid in 1978 and following years.

3.9 During the financial year, transfers of appropriations have appreciably altered the initial distribution of the 325 000 000 u.a. between the various Chapters of Title 8, as initially provided for in the 1977 budget. In particular, those appropriations allocated for improving the conditions under which agricultural products are processed and marketed (Item 8202: 80 000 000 u.a.) for redeployment measures in the non-industrial in-shore fishing sector (Item 8302: 15 000 000 u.a.) and for wine reconversion premiums (Item 8350: 8 000 000 u.a.) were all transferred to finance in particular individual investment projects.

3.10 The initial and final allocation of commitment appropriations for each Chapter of Title 8 is made up as follows:

Table 8

(in u.a.)

Chapter		Initial allocation		Final allocation	
No	Heading	Sum	%	Sum	%
80	Individual projects	91 200 000	28.06	221 692 815	68.21
81	Common measures for the reform of agricultural structures	98 300 000	30.25	76 327 430	23.49
82	Common measures for the marketing and processing of agricultural products	81 000 000	24.92	6 059 461	1.86
83	Common measures in particular sectors	39 500 000	12.15	17 813 181	5.48
89	Special measures	15 000 000	4.62	3 107 113	0.96
		325 000 000	100.00	325 000 000	100.00

3.11 There were similar movements of appropriations during previous years and in 1976 the appropriations charged to Chapter 80 (individual projects) were increased, by transfer, from 141 200 000 u.a. to 235 470 000 u.a. i.e., from 43.45 % to 72.45 % of the total appropriations of Title 8.

3.12 Besides the appropriations available in the budget of the financial year in 1977, the Commission

also had available commitment appropriations carried forward from 1976 and other appropriations which became available because certain individual projects previously approved had either not been carried out at all or had been only partially implemented (Council Regulation No 3171/75, OJ L 315, 1975). The distribution of the total commitment appropriations available to the Commission in 1977 for the Guidance Section, amounting to 372 769 713 u.a. is shown in Table 9.

Table 9 — Commitment appropriations of the EAGGF Guidance Section in 1977

(in u.a.)

Heading	Initial commitment appropriations	Transfers	Final commitment appropriations	Commitment appropriations carried for- ward from 1976	Appropriations available from release of funds	Totals (4) to (6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Investment projects						
— 1977 projects	91 200 000	+ 130 492 815	221 692 815	—	—	221 692 815
— 1976-1977 projects	—	—	—	—	25 605 819	25 605 819
Total	91 200 000	+ 130 492 815	221 692 815	—	25 605 819	247 298 634
Common measures						
— modernization of farms	18 800 000	— 3 972 861	14 827 139	2 863 002	—	17 690 141
— cessation of farming	1 400 000	— 1 304 898	95 102	15 448	—	110 550
— socio-economic guidance and improvement of occupational skills	3 800 000	— 3 126 919	673 081	967 015	—	1 640 096
— hill farming and farming in less-favoured areas	74 300 000	— 13 567 892	60 732 108	835 846	—	61 567 954
— groups of producers and their associations	500 000	+ 4 614 115	5 114 115	—	—	5 114 115
— hop producers groups	500 000	+ 445 346	945 346	996 029	—	1 941 375
— marketing and processing of agricultural products	80 000 000	— 80 000 000	—	—	—	—
— redeployment measures in the salt cod-fishing industry	—	—	—	600 000	—	600 000
— redeployment measures in the non-industrial inshore fishing sector	15 000 000	— 15 000 000	—	—	—	—
— development of beef production	11 000 000	— 3 280 663	7 719 337	11 489 287	—	19 208 624
— reorganization of fruit production	5 500 000	— 5 158 156	341 844	—	—	341 844
— statistical survey 1975	—	—	—	2 534 507	—	2 534 507
— conversion premiums in the wine sector	8 000 000	— 8 000 000	—	—	—	—
— premiums for the non-marketing of milk	—	+ 9 752 000	9 752 000	—	—	9 752 000
Total	218 800 000	— 118 599 928	100 200 072	20 301 134	—	120 501 206
Special measures						
— producers groups in the fruit and vegetable sector	—	—	—	1 696 854	—	1 696 854
— premiums for the slaughtering of cows and the non-marketing of milk	—	—	—	165 906	—	165 906
— improvement in citrus fruits sector	15 000 000	— 11 892 887	3 107 113	—	—	3 107 113
Total	15 000 000	— 11 892 887	3 107 113	1 862 760	—	4 969 873
Total Title 8	325 000 000	—	325 000 000	22 163 894	25 605 819	372 769 713

1977 Commitments

3.13 The total commitments made in 1977 amounting to 348 034 294 u.a. were distributed as follows:

(in u.a.)

	Investment projects	Common measures and special measures
Charged against 1977 appropriations	221 692 815	79 850 411
Charged against appropriations carried forward from 1976	—	20 885 249
Charged against appropriations released from previous years	25 605 819	—
	247 298 634	100 735 660

3.14 The appropriations available for projects were totally committed, while for common and special measures, commitments represented 80.28 % of the final appropriations, the non-utilized balance being almost entirely carried forward to the financial year 1978.

3.15 Assistance from the Fund was granted in 1977 to 802 investment projects, divided into two tranches totalling 247 298 634 u.a. subdivided as follows between the Member States:

(in u.a.)

Countries	Number of projects	Amount of aid
Belgium	78	12 336 079
Denmark	42	9 824 359
FR of Germany	159	44 492 739
France	79	46 439 689
Ireland	101	18 030 037
Italy	198	77 450 872
Luxembourg	1	68 112
Netherlands	49	11 300 000
United Kingdom	95	27 356 747
	802	247 298 634

3.16 In 1976 aid from the Fund was granted to 808 projects and totalled 264 194 544 u.a. The total aid granted by the Guidance Section to 7 066 projects, financed since the beginning of its operation amounted to 1 987 748 932 u.a. Of this 839 004 076 u.a. had been paid out, 91 872 623 remained unutilized, (including 54 330 362 u.a. recovered for new commitments) and 1 056 873 233 u.a. had still to be paid.

3.17 For common and special measures, the Commission committed a sum of 100 735 659 u.a. in 1977, distributed as follows between the Member States:

(in u.a.)

Countries	Common measures	Special measures
Belgium	1 617 415	1 000
Denmark	1 877 217	750 226
FR of Germany	17 492 340	—
France	18 718 637	—
Ireland	9 475 831	—
Italy	424 523	3 822 731
Luxembourg	409 890	—
Netherlands	3 169 314	—
United Kingdom	42 976 535	—
	96 161 702	4 573 957

3.18 Since the initial operation of the Fund, the total commitments entered into for common and special measures amounted to 489 975 406 u.a. at 31 December 1977, of which 483 655 851 u.a. had already been paid out, 2 821 874 remained unutilized and 3 497 681 u.a. had still to be paid.

3.19 Guidance Section commitments in 1977 are shown in Table 10.

Table 10 — Commitments of the EAGGF Guidance Section in 1977

(in u.a.)

Heading	Commitments from the previous financial years still to be paid at 1. 1. 1977	Commitments in 1977 from the appropriations for the financial year	Commitments in 1977 from the appropriations carried forward or disengaged from the previous financial years	Total (2) to (4)	Payments in 1977	Commitments remaining at 31. 12. 1977 (5) to (6)
(1)	(2)	(3)	(4)	(5)	(6)	(7)
Investment projects						
— 1977 projects	—	221 692 815	25 605 819	247 298 634	386 927	246 911 707
— 1967-1976 projects	1 033 216 841	—	—	1 007 611 022	196 114 407	811 496 615 ⁽¹⁾
minus: 1977 disengagements	— 25 605 819	—	—	—	—	—
Total	1 007 611 022	221 692 815	25 605 819	1 254 909 656	196 501 334	1 058 408 322 ⁽¹⁾
Common Measures						
— modernization of farms	—	12 403 664	2 863 002	15 266 666	15 266 666	—
— cessation of farming	—	92 453	15 448	107 901	107 901	—
— socio-economic guidance and improvement of occupational skills	—	639 539	967 015	1 606 554	1 606 554	—
— hill farming and farming in less-favoured areas	—	59 222 276	835 845	60 058 121	60 058 121	—
— hops producers groups	—	56 465	996 029	1 052 494	1 052 494	—
— redeployment measures in the salt cod-fishing industry	2 944 964	—	—	2 944 964	1 274 671	1 670 293
— development of beef production	—	1 308 759	11 489 287	12 798 046	12 798 046	—
— reorganization of fruit production	—	341 843	—	341 843	341 843	—
— statistical survey 1975	—	—	2 020 769	2 020 769	193 380	1 827 389
— premiums for non-marketing of milk	—	2 909 308	—	2 909 308	2 909 308	—
Total	2 944 964	76 974 307	19 187 395	99 106 666	95 608 984	3 497 682
Special measures						
— producers groups in the fruit and vegetable sector	—	—	1 696 854	1 696 854	1 696 854	—
— premiums for the slaughtering of cows and non-marketing of milk	—	—	1 000	1 000	1 000	—
— improvement in citrus fruits sector	—	2 876 103	—	2 876 103	2 876 103	—
Total	—	2 876 103	1 697 854	4 573 957	4 573 957	—
Total Title 8	1 010 555 986	301 543 225	46 491 068	1 358 590 279	296 684 275	1 061 906 004 ⁽¹⁾

⁽¹⁾ Of which 1 536 190 u.a. was cancelled.

Payment appropriations and payments made in 1977

3.20 In 1977 the Commission had at its disposal payment appropriations amounting to 1 216 125 698 u.a. distributed as follows:

	(in u.a.)	
	Individual projects	Common measures and special measures
Payment appropriations for the financial year	54 492 815	103 307 185
Appropriations automatically carried forward from previous financial years	926 555 425	2 944 964
Appropriations carried forward from previous financial years by a Council decision	106 661 416	22 163 893
	1 087 709 656	128 416 042

3.21 Payments totalled 296 684 275 u.a. 2 814 834 u.a. payment appropriations were cancelled. The remaining payment appropriations, i.e. 916 626 589 u.a. were carried forward automatically or by a Council Decision to the financial year 1978. In 1976 payments amounted to 218 198 944 u.a. including 142 598 891 u.a. for projects and 75 600 053 u.a. for common and special measures.

3.22 Payments for the financial year were distributed between the Member States as follows:

	(in u.a.)		
Member State	Individual projects	Common measures and special measures	Totals
Belgium	14 936 864	1 618 416	16 555 280
Denmark	11 905 755	2 627 442	14 533 197
FR of Germany	52 489 401	17 252 340	69 741 741
France	40 318 596	18 977 632	59 296 228
Ireland	5 292 205	9 475 830	14 768 035
Italy	30 466 780	3 822 731	34 289 511
Luxembourg	1 763 454	409 890	2 173 344
Netherlands	16 771 445	3 112 649	19 884 094
United Kingdom	22 556 834	42 886 011	65 442 845
	196 501 334	100 182 941	296 684 275

3.23 The 1977 budget forecast payments totalling 433.8 million u.a. during the financial year, including the closure of all projects prior to 1970. On 31 December 1977, 4 607 363 u.a. in commitments had still to be paid for projects prior to 1970 and payment appropriations were carried forward to 1978, including 2 617 231 u.a. for 1969 projects, 1 060 998 u.a. for 1968 projects and 929 134 u.a. for those of 1967.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 3.20 to 3.23:

Implementation problems

Apart from the difficulties attached to implementing the common measures and consequently the non-utilization of Guidance Section appropriations there is the problem of the time lag between commitment and payment, which is closely linked to the type of measure — a problem which the Commission has over the years taken steps to alleviate.

A distinction should be made between direct action by the Community in the form of an EAGGF subsidy for an individual investment project, and indirect action whereby the Fund

pays back to the Member States the proportion of the aid granted by them. In the first instance the payments are virtually never made during the year when the commitment decision is taken; they are spread over several years in step with the progress made by the work. Actual repayments are generally made during the accounting year when the commitment decision is taken.

General observations

3.24 The problems involved in setting up its organization have not enabled the Court to carry out audits in the Guidance Section for the financial year 1977 on the scale it thinks desirable. Those carried out covered the expenditure for 49 individual projects (compared with 67 in the previous financial year) and the expenditure on the following common measures:

- (i) measures concerned with the occupational skills of persons engaged in agriculture (Council Directive (EEC) No 72/161); expenditure in France (financial years 1973 to 1975) and Ireland (financial year 1975);
- (ii) measures concerning mountain and hill farming and farming in certain less-favoured regions (Council Directive (EEC) No 75/268); expenditure in France and the United Kingdom for the financial year 1975;
- (iii) expenditure in the United Kingdom for the financial year 1976 on the measures to encourage the establishment and functioning of hop producers' organizations (Council Regulation (EEC) No 1696/71).

3.25 In 1977, as in previous financial years, the Commission organized on-the-spot checks of expenditure under the Guidance Section. The Court and, formerly, the Audit Board, took part in three of these visits: one concerned two individual projects; the two other visits covered four common actions and one special measure. In 1976 they were present at four on-the-spot checks, two on individual projects, and two on common or special measures.

Individual projects

3.26 It appeared to the Court of Auditors that certain of the payments made under the provisions of the Guidance Section were received by concerns which held dominant positions in the market in respect of which the grants were made:

- Thus the beneficiary of Project B 31/71 (extension of a plant manufacturing oils and fats

at Anderlecht) handled 25 % of the total national product of these goods when the request for aid was made and the aim of the project is to increase this percentage to 40 %;

- the project IRL 40/74 (construction of a factory for the production of fat, bone marrow and meat at Cahir) was carried out by a subsidiary of an industrial concern which treats half the offal from Irish slaughterhouses;
- the beneficiary of the Project F 23/72 was the largest world producer of mushroom seeds and held 70 % of the national market and 50 % of Community markets;
- the beneficiary of Project F 43/74 (construction of premises for the ageing of brandy at Ambes) claimed that he had a section of the French market representing about 100 % of matured brandies and 80 % of young brandies;
- the beneficiary of Project UK 1/74 was a member of a group of companies which had the second largest share of the United Kingdom tobacco industry.

3.27 The Court considers that the Commission should be asked to give an assurance that, in sanctioning payments under the above and other projects involving concerns with a major share of the relevant market, they have properly taken into account the rules regarding free competition set out in the Treaties. Has the Commission, when making decisions, given consideration to these rules, and what estimate, if any, has it made of the effect of these decisions on the relevant market? Has it made any subsequent attempt to assess the accuracy of any such estimate in the event?

3.28 Certain projects have as their objective a measure of vertical integration within a sector of the agricultural industry:

- Thus, Project B 46/74 (enlargement of a drying room for beetroot pulp at Warcoing) and Project F 53/72 (construction of a factory for the dehydration of beetroot pulp at Escaudoeuvres) illustrate the practice of many sugar refineries of creating an *ad hoc* cooperative represented by the beetroot and the sugar producers.
- Project F 138/71 (capital outlay relating to pork production at Loudeac and Strasbourg) forms part of a five-year plan drawn up by the concern receiving the grant in order to extend and modernize its plants. In its decision to grant subsidies in this case, the Commission mentions 'a greater regularity in the outlets opened to pig breeders and an improvement in their income' as being among the anticipated effects of the help.

3.29 The Court of Auditors questions whether, in cases such as those cited, the declared aims of assisting the producer rather than the processors are likely to be realized. The Court wishes to draw attention in this connection to the situation which arose in Project F 43/74 (referred to in paragraph 3.26) where the circumstances were not dissimilar. In that case the wine growers benefited in the short term by receiving something higher than the minimum price which had been fixed for their products, but the Financial Controller of the Commission noted that there was nothing to prove that this policy would be followed in the future since 'the aim of a firm is to increase its returns and profit margins. In order to achieve this, production costs and, in particular, the price of raw materials must be minimized as far as possible. Therefore, the prices set out in the past... are not a proper guide to the policy to be adopted in the future'.

3.30 Arguments relating to ecology, land utilization and the quality of life are often used to support applications made under the Guidance Section. These arguments are also reflected at times in Commission decisions. The Court of Auditors hopes that when several such differing arguments are advanced in favour of a project, the decisions granting the help should distinguish clearly between them so as to indicate the degree of importance attached to the objectives of the projects and to the assessment of the results.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 3.26 to 3.30:

Individual projects

The Court of Auditors raises a problem regularly arising with regard to the marketing and processing of agricultural products, for which Article 17 (2) of Council Regulation No 17/64/EEC provides as follows:

'Intervention by the Fund must not alter the conditions of competition in such a way as to be incompatible with the principles contained in the relevant provisions of the Treaty.'

The Commission is of the opinion that, as emerges from the details given below, this requirement has been met. It must, however, be stated in general terms that determination of a dominant position by a beneficiary in a certain market or sector depends in part on the definition of that market or sector. As regards the marketing of agricultural products it is often a question of subsidiary markets which cannot truly be considered to be separate markets since the competition comes mainly from other products which can replace the product in question. In these circumstances it seems difficult to claim a dominant position for certain of the instances quoted by the Court.

There are also certain sectors which are so restricted in size that all of the competitors hold dominant positions, but often have a turnover which is very limited, which leads to difficulties for them in raising the necessary investment capital.

The outcome is that in certain regions of the Community some agricultural products are still upgraded to a very limited extent, if at all (e.g. offal).

The beneficiary under project B 31/71 performs activities aimed at upgrading slaughterhouse offal which, particularly beef fat, cannot be marketed as such and is also having difficulty in finding outlets. After rendering down, fat of this type is used inter alia in the soap industry and in cattle feed, but on this market alternative products are so numerous that only highly automated processing (envisaged by the beneficiary) can enable production to continue. If such activities downstream of the local abattoirs, who supply the raw material, are not continued there would be not only a total loss of profits but also the additional cost of disposing of waste which is currently recycled. Even with 40 % of the market (and here it is certainly not a separate market but a slice of a market dominated by other products) the company is still very small in economic terms.

Project IRL 40/74 follows the same lines as the former project, i.e. it concerns the production of cattle feed based on slaughterhouse offal. Before implementation of the project, this offal had to be transported to Northern Ireland for processing, so that in addition to transport costs out of proportion to the value of the offal there were hygiene problems.

Project F 23/72 involves a highly specialized market — mushroom spawn — which is served by very few undertakings. In view of the growth in demand, particularly for export, production capacity was inadequate. The beneficiary handles 70 % of the national market, in fact, and not of the world market.

The beneficiary of project F 43/74 does indeed control the percentages quoted for certain products (brandies without registered designation based on French wines) but not on the market, which also includes many other products.

The beneficiary of project UK 1/74 is a member of a large group which possibly occupies a dominant position on the tobacco market, but in no way in the sector covered by the project, which is aimed at the processing of fish stock.

These projects thus comply with Article 17(2) of Council Regulation No 17/64/EEC. As the Commission attaches particular importance to this aspect, its competent departments are monitoring developments in the various marketing sectors for agricultural products.

The Commission does not intend to discriminate against a beneficiary (and Council Regulation No 17/64/EEC does not in any case permit it) because of the organization which he chooses for his activities. The sole criteria applied are thus the proven effects of the action envisaged. For the three cases quoted the advantages of the projects mentioned below justify the granting of EAGGF aid:

The creation of pulp-drying cooperatives (F 53/73 and B 46/74) was prompted by the fact that the end product is used by farmers as cattle feed. It is therefore not marketed outside the agricultural sector and it is difficult to accept that the benefit from investments in a sector such as this does not go to the farmers, particularly if it is they who have the majority holding within the beneficiary undertaking.

The beneficiary of project F 138/71 is contractually linked with farmers or groups of producers supplying pigs. This system is specifically provided for in the new common measures to improve the conditions under which

agricultural products are processed and marketed (Council Regulation (EEC) No 355/77) as an example to demonstrate the advantages of a project for the producers. The Commission is trying to encourage such systems since they can be one of the best means of guaranteeing agricultural outlets and incomes.

It should be noted with regard to project F 43/74, quoted by the Court of Auditors, that the economic reality is much more complex than this aspect of the situation. If the comment had been correct (i.e. that the undertaking should reduce its prices as much as possible), this would also have been true in the past. The cost of raw materials indeed depends basically on the relationship between supply and demand. However, a company's past pricing policy is thus in certain cases a valuable indicator of future policy. This at least applies in a sector where the Commission is not interested in seeing a contractual policy developed. This project concerns the distillation of surplus wines; although the aim is for vine-growers to obtain the highest possible price for their products, to guarantee this by contracts leading to surplus production must be avoided. Where there are no contracts the only valid indicator can be the policy pursued in the past. The Commission has therefore overruled the refusal to approve this project.

It is quite true that applicants always try to marshal as many arguments as possible in favour of their projects and that the latter often follow no common thread. In future the Commission will try to clarify in more detail the points accepted as justifying the decision to grant aid.

THE TRAINING OF PEOPLE ENGAGED IN AGRICULTURE

3.31 The scheme to encourage the development of occupational skills of workers in agriculture is laid down in Title II of Council Directive No 72/161. It involves measures which aim to provide further training of a general, a technical and an economic nature to such workers over the age of 18. The scheme may vary from region to region and indeed may not be applied in some.

3.32 The training programmes, which do not involve the usual curricula for agriculture followed in secondary schools and centres of further education, are to be carried out at training centres or by in-service training courses which are either run by public bodies or expressly appointed and approved for the purpose by the Member State. The Member State fixes the minimum requirements for any such programme or scheme and in particular it is asked:

- (a) To lay down the criteria for the admission of a candidate to a centre or course;
- (b) To lay down a minimum programme and, in particular the weight to be given to training in technical and economic subjects;
- (c) To specify the length of training having regard to the particular objective in question and to the aims envisaged in Article 5 of the Directive;
- (d) To determine the structure of the courses in the establishment both as regards the quality of the training to be given and as regards its cost and amount.

3.33 The Guidance Section refunds to the Member State 25 % of the expenditure actually incurred in establishing and developing the training centres and courses and 25 % of that incurred in paying allowances to those attending the training centre, up to an overall amount of 1 500 u.a. for each worker in agriculture who has completed a course of vocational training.

3.34 Provisions adopted in Ireland and in France were given a favourable decision by the Commission on 25 February 1975 and 3 March 1976 respectively. In both Member States the training organizations meet the requirements of being public bodies specifically appointed and subsidized by the administration.

3.35 In Ireland the implementation of the Directive has shown that differing interpretations can be placed upon certain of its provisions. This situation has arisen, for example as regards (a) the meaning to be given to the provision that sums, by way of expenditure, are to be converted at an appropriate exchange rate, and (b) the method of calculating the cost of running the course and distributing the expenditure over more than one financial year.

3.36 A more general problem concerns the nature of the ceiling of 1 500 u.a. This could either mean a ceiling for each course or could relate to the

beneficiary himself. The practice followed by the Member State in question which was approved by the Commission is that of the second interpretation.

3.37 In France the Regulation provides that the individual taking a course must demonstrate that he has been guaranteed a job in agriculture after completion of his training. The decision of the Commission of 3 March 1976 accepted that the expenditure incurred by the French Government was eligible under the terms of the Directive 72/161. However, this decision imposed a restriction on short-term courses. Reimbursement is not made in respect of these unless the farmer attends more than one course.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 3.37:

The training of people engaged in agriculture

The method of converting into national currency the amounts expressed in units of account in the measures relating to the common policy on agricultural structures was established in 1975 in compliance with the relevant Community provisions (Articles 4 and 6, Regulation (EEC) 1134/68). The representative rate to be used is that in force at the time the aid is granted. The aid provided for in Directive No. 72/161, Title II, is converted at the representative rate in force at the time the training period begins. This is quite clear, equally so in the case of Ireland. The course fees consist of (a) the money spent by trainees (e.g. travel expenses) and the allowance granted to offset loss of wages and (b) the costs borne by the training institution. Where the part of the expenditure is reimbursed by the Fund, the method of calculating and the nature of the expenditure to be accepted are determined by joint agreement with the Member States concerned. Finally, it should be noted with regard to the distribution of expenditure that, where a course extends over two accounting periods, the whole of the expenditure is declared to the EAGGF Guidance Section for the accounting period in which the course ends.

The sum of 1 500 u.a. provided for in Directive 72/161/EEC is assigned to the beneficiary personally and therefore constitutes a ceiling for each trainee. The ratio set out in Article 12 of the Directive leaves no doubt on this point. It

must be pointed out that the restriction on the reimbursement of expenses for short courses is imposed by the Commission on all Member States. Two training periods of this type are the minimum needed to form a complete course.

MOUNTAIN AND HILL FARMING

3.38 The aim of Council Directive No 75/268, which deals with this matter, is to ensure the survival of farming in certain areas which are not favoured by nature and by this means to maintain a minimum population level or to conserve the countryside. It does so by introducing a system of aids to raise farm incomes and thus to encourage the retention of farming in the areas.

3.39 The regions in question (which are to be defined by communication to the Commission by the Member States) are characterized by limitations in the possibility of land use and higher than normal operating costs arising from the altitude or from difficult climatic conditions. The Directive includes not only mountainous and hilly regions, but also other difficult areas for farming which may be in danger of depopulation and where conservation of the countryside and of farming is necessary.

3.40 The Directive lays down that help can be given by the Guidance Section if the Member States introduce measures which conform to certain criteria in the following fields:

- (i) Grant of annual allowance to compensate for permanent natural handicaps — referred to as compensatory allowance;
- (ii) Grant of certain aids under the conditions laid down in Council Directive No 72/159 to farms suitable for modernization;
- (iii) Grant in aid of joint investments.

Reimbursement through the Guidance Section to the Member States is generally equal to 25 % of the eligible expenditure.

3.41 The compensatory allowance referred to under (i) above may be granted to farmers who cultivate at least three hectares of land used for agriculture and who undertake to pursue a farming activity in accordance with the aims of the Directive for at least five years. There are circumstances in which farmers can be released from this last obligation. The amount of the compensatory allowance is determined by the Member State, but in

general it is to be not less than 15 u.a. per livestock unit⁽¹⁾, or, where appropriate in the mountainous areas, per hectare.

3.42 For cattle, sheep and goat production the allowance may not exceed 50 u.a. per head livestock unit or 50 u.a. per hectare of the total grazing area of the farm. For production in mountainous regions other than of cattle, sheep or goats the allowance is not to exceed 50 u.a. per hectare. Member States may also give grants to assist farms which cannot be expected to produce a reasonable level of income, but there is no Community supplement in these cases.

United Kingdom

3.43 On 3 March 1976 the Commission approved the United Kingdom provisions in this field which had been submitted with claims for the financial year 1975. The Commission's decision, however, contained two reservations. First, it pointed out that the beneficiary should be obliged to continue farming for five years and it was also pointed out that the compensatory allowance, which was of an amount of 51 u.a. per hectare of grazing area, was in excess of the ceiling of 50 u.a.

3.44 Despite these reservations, the United Kingdom expenditure was deemed eligible but the Commission ruled that the 1975 compensatory allowance should be conditional upon an undertaking to be made together with the application for the following year that the beneficiary would stay in farming for five years. As for the excess over the ceiling of 50 u.a. per hectare, it was laid down in Commission Regulation No 124/76 that an increase to 51 u.a. should be made.

3.45 The United Kingdom authorities were asked to submit to the Commission the supporting documents for the claims made by beneficiaries in three areas. Since the Directive does not require for the compensatory allowance the presentation of details of each individual case, the UK authorities gave only a breakdown of the claims.

France

3.46 The regulations made in France for the year 1975 (Decree 74/134) were accepted by the Commission on 3 December 1976. The regulations

⁽¹⁾ 'Livestock unit' is defined in the Directive. Adult cattle are treated on the basis of a single livestock unit per head and young cattle, sheep and goats as fractions of a unit.

which operate also for 1976 needed revision, however, in certain minor respects relating to the conversion table for livestock units (see footnote on page 50).

3.47 The Commission called for the production of documents for each beneficiary before making payment of the full amount of the grants and drew the attention of the French authorities to a number of points in order to strengthen compliance with the regulations. The French decree governing the 1977 situation (Decree 77/566: 3 June 1977) incorporates improvements in these respects. It was accepted by the Commission on 23 November 1977.

3.48 The limited examination of the 1975 supporting documents which was made by the Court of Auditors indicated that although the qualifying ceiling for aid in terms of head of livestock was normally observed, the associated ceiling in terms of grazing area was overlooked on many occasions. These shortcomings, which were brought to light by the Commission's staff, have not led to any correction or request for correction of the relevant expenditure.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 3.38 to 3.48:

Operators who are likely to develop may in fact claim certain aids as provided for in Council Directive No 72/159, but under the conditions laid down under Title III of Council Directive 75/268.

On 2 March 1977, 'before payment of the balance to be reimbursed for 1975, the United

Kingdom confirmed that the special provision laid down in the Commission Decision of 3 March 1976 had been complied with in respect of all expenditure in 1975. The Commission therefore accepted the eligibility of all of the expenditure declared.

In accordance with Article 4 of Commission Decision 76/627/EEC the Member States are obliged to keep — for a period of three years dating from the final reimbursement — the supporting documents (originals or certified copies) on the basis of which the aids envisaged in Directive 75/268/EEC were calculated, together with complete files on the beneficiaries. In addition, Article 9 (2) (b) of Council Regulation (EEC) No 729/70 on the financing of the common agricultural policy stipulates that the officials appointed by the Commission may check whether the requisite supporting documents exist and tally with the transactions financed by the Fund.

The supporting documents requested from France concern solely the sum total of the beneficiaries from two départements and a number of beneficiaries from three other départements mentioned in the report.

The information supplied by France at the request of the EAGGF Guidance Section shows that the use of collective pastures or mountain pastures, which was very widespread in certain regions of France, did not appear from the individual slips. Since it emerged that, in view of the surface areas used in common, the conditions for Community support for the declared expenditure had been fulfilled, it was not necessary to amend the request for reimbursement. Starting from 1977 the individual slips will be altered so as also to include information on the collective pastures or alpine pastures in use.

Chapter 4 — The European Social Fund

INTRODUCTION

4.1 Articles 123 to 128 of the EEC Treaty established a European Social Fund in order to 'render the employment of workers easier and to increase their geographical and occupational mobility within the Community'.

4.2 In 1977 the Fund was governed solely by the Council Decision of 1 February 1971 (71/66/EEC), which entered into force on 1 May 1972, the previous Fund having been finally closed on 31 December 1976.

4.3 Financial assistance is granted from the Fund towards vocational training and towards the expenses

involved in any change of residence necessary in order to pursue an occupation, and to facilitate the access of handicapped workers to available employment. The assistance is divided into two categories which appear in the budget under Chapters 50 and 51. A further category of expenditure appears under Chapter 52 which is intended to promote, carry out or give financial assistance to preparatory studies and pilot schemes.

The Commission adds:

About 90 % of the assistance from the Fund goes towards vocational retraining and resettlement operations (occupational mobility), more than half of this total being for the maintenance of workers' incomes during the retraining and resettlement period. The remaining 10 % is for operations to assist the geographical mobility of workers.

Leaving aside the pilot schemes and studies, the money for which is included in Chapter 52 of the budget and represents a minute proportion of the sum allocated to it, the Fund acts in two ways:

(1) On the basis of specific decisions by the Council, where the employment situation:

- (a) is affected or likely to be affected (intervention either through particular measures adopted by the Council as part of Community policies or through common measures designed to further the objectives of the Community); or*
- (b) calls for a specific common measure to improve the correspondence between supply and demand on Community labour markets.*

In 1977 these operations concerned workers leaving agriculture, textile and clothing workers, migrant workers, handicapped workers and young people seeking employment.

(2) In respect of operations which are carried out in the Member States as part of their employment market policies and which:

- (a) are aimed at resolving the problems arising in certain regions suffering from serious long-term imbalances in employment;*
- (b) are aimed at making it easier to adapt to the requirements of technical progress in certain branches of economic activity;*
- (c) are conducted because of major changes in the conditions governing the*

production or marketing of products in groups of firms in the same line of business or related activities which are obliged to discontinue their activities, run them down or convert to another line of business on a permanent basis;

(d) concern the integration or re-integration of handicapped persons into employment.

4.4 Certain amendments were made to the Financial Regulation by Regulations (EEC) Nos 892/76 and 919/76⁽¹⁾ in respect of the management of the European Social Fund and entered into force on 1 January 1977. The amendments have introduced dissociated appropriations for the Social Fund in order to take account of its multiannual character. From now on a distinction is made between commitment appropriations and payment appropriations. The first represent the total legal commitments which may be entered into during the financial year for projects which require more than one year to execute; the second cover the expenditure arising from the execution of commitments entered into during the current and/or preceding financial years.

4.5 According to the former budgetary system, commitments could be made for the two years following the financial year in question, in addition to commitments for that year. Under this system, the then Financial Regulation provided for the inclusion on the commentary side of the budget of commitment authorizations on account of the appropriations from the following two years. The non-utilized appropriations of the year were automatically carried forward.

4.6 Owing to the introduction of the new budgetary system of commitments and payments, 1977 became a transitional year and it became difficult, sometimes impossible, to make comparisons with the preceding years.

4.7 The operations in the process of being settled are consequently subject to three different financial regimes:

- (i) for those in respect of which commitments were made before 31 December 1974 it is provided that the payment appropriations may be carried forward for one year only. If necessary, these credits may be re-entered;
- (ii) for those relating to the financial years 1975 and 1976 the payment appropriations were completed by commitment authorizations included in the budgetary commentary; although

⁽¹⁾ OJ L 333 of 2. 12. 1976; OJ L 362 of 31. 12. 1976.

entered in the budget of the year under consideration, they were intended to cover actions in the following two financial years.

- (iii) for those relating to the financial year 1977 the payment appropriations cover the expenditure relating to the execution of commitments entered into during the financial year.

The Commission adds:

The old system was in force from 1 May 1972 until 31 December 1976. Under these arrangements the budget appropriations covered the operations for the financial year in question (financial year n) and were supplemented by commitment authorizations for operations in the financial years n + 1 and n + 2. Consequently, when the change was made to the system of differentiated appropriations, on 1 January 1977, a total of 268 million u.a. had already been committed from 1975 or 1976, as the case may be, in respect of operations still to be carried out (195 million u.a. in 1977 and 73 million u.a. in 1978).

The new regime has been in force since 1 January 1977. The appropriations for commitment now cover operations to be carried out during the financial year in question or ensuing financial years, without any theoretical limit in the future. As a result, the system of commitment authorizations becomes superfluous. Article 108, paragraph 4 of the Financial Regulation lays down, however, that the commitment authorizations for the European Social Fund made available under the 1976 budget and to be charged against operations during the financial year 1978 on the basis of Article 104 of the Financial Regulation of 25 April 1973 shall remain in force during the financial year for which they were granted and the sums committed under these authorizations shall be added to the commitment appropriations for the financial year for which they were made available. As regards the appropriations for payment, their purpose is to meet — in accordance with the estimated requirements for the financial year in question — the commitments entered into during the financial year or earlier years, without any theoretical limit in the past.

1977 was the first year of the differentiated appropriations system. Taking into account the appropriations carried over from 1976, the appropriations for payment for the financial year 1977 had been fixed much lower than the appropriations for commitment: 172.4 million u.a. compared with 617 million u.a. Even so, they were not used up in their entirety during

the year, since 57 million u.a. were carried over to 1978.

The budget presentation in 1977

4.8 The 1977 budgetary commentary shows that the payment appropriations are made up on the one hand of payments relating to the commitments of the financial year and, on the other hand, of re-entries relative to commitments already contracted under the previous regime. These latter payment credits were an estimate of the commitments entered into in previous years which were likely to be settled in 1977. It is questionable, however, whether the term 're-entry' is correct in this context. In the past this term has been used to describe the entry of new authorizations when commitments and payments had not yet been dissociated. This is not the case here.

The revenue and expenditure account ⁽¹⁾

4.9 The overlapping of the three different financial regimes (see 4.7) has led to a confusing and erroneous situation in the revenue and expenditure account. The following principal observations are to be made:

- (i) Table 7 of the accounts does not give an accurate picture:
 - (a) In column 5 the unpaid commitments prior to 1974 are omitted though payments for 1973, included in Table 6, column 6, have been made; furthermore, the amount indicated for Chapter 52 cannot be correct since a much higher sum has been carried forward from 1976 (see Table 9, column 5).
 - (b) Those 1976 commitment authorizations to be paid in 1978 were not included in the account (column 5).
 - (c) In column 6 the 1977 payments from the 1975 and 1976 commitment authorizations are missing, having been incorrectly listed under the payments made from the commitments for the financial year (see Table 8, column 6).
 - (d) Column 7 gives correct totals for Chapter 50 and for Chapter 51 but the distribution within the chapters is obviously wrong (even producing in the one case, a negative amount); in addition, no amount is given for Chapter 52 (see also Table 9, column 6).
- (ii) Title 8 is misleading in so far as column 6 should present only the payments in respect of 1977 commitments; as it stands it includes the

⁽¹⁾ all tables referred to in paragraphs 4.9 and 4.10 are those contained in the Commission's accounts.

payments in respect of the 1975 and 1976 commitment authorizations as well.

4.10 The Court of Auditors recommends a thorough revision of the revenue and expenditure account and suggests for a clearer analysis of the situation the presentation of additional tables, in which:

- Table 6, column 6 will be broken down by reference to the year of commitment;
- Table 7, column 5 will be broken down into its main components

Reply of the Commission

The Commission has made the following reply to paragraphs 4.9 and 4.10:

The Commission admits that the present arrangements for the revenue and expenditure account may be conducive to error; the suggestions made by the Court of Auditors will be examined and appropriate steps will be taken for 1978 onwards. Meanwhile, the Commission has corrected the mistakes made in the 1977 revenue and expenditure account in accordance with the Court's observations.

Comment of the Court of Auditors

The Court has not received the corrected version of the revenue and expenditure account.

In paragraph 4.10 the Court has suggested that presentation would be clearer if certain further information is given in the accounts. In Tables 11 and 12 of this Report, the Court has attempted to provide that information.

4.11 No alignment has been made between the accounts and the sums which, according to the files, still remain to be paid. In particular, certain appropriations have not been cancelled.

Reply of the Commission

The Commission has made the following reply to paragraph 4.11:

There is a difference between the amount of assistance committed for operations in a particular financial year and the amount of payments made even after several years, leaving aside particularly tricky operations or operations which are behind schedule, this difference is attributable to programme reductions or cancellations.

Hitherto this difference could not be shown in the accounts. With a system of non-differentiated appropriations, the accounts showed — as required by the Financial Regulation — only the final amount of commitments at the end of the financial year and the final amount of the corresponding payments at the end of the carry-over period. The appropriation representing the difference between these two amounts lapsed. If sums had to be paid subsequently, it was necessary to re-commit them, first of all, against fresh appropriations for the current financial year. Consequently, the programme reductions or cancellations were not shown in the accounts except as regards administration requirements, i.e. in respect of the Social Fund departments. With a system of differentiated appropriations the procedure is different. Article 6 (2) (a) of the Financial Regulation now allows two years for the utilization of appropriations for commitment granted for the financial year n . Hence appropriations for the financial year n committed in the financial year n may be released either before the end of that financial year or even in the financial year $n + 1$ and re-committed before the end of the financial year $n + 1$.

Consequently, if programme reductions or cancellations are made in good time before the end of the financial year $n + 1$ the corresponding appropriations may be re-utilized for new operations.

As from the financial year $n + 2$, programme reductions or cancellations may no longer give rise to re-commitments. The value of the release of appropriations would, nevertheless, be to make the accounting figures for the sums outstanding under past commitments more realistic; the Commission will therefore be using this method in the future.

Comment of the Court of Auditors

The Court notes that its criticism of the accounting procedures is accepted.

The financial management

4.12 An essential pre-condition for an assessment of the soundness of the financial management is the presentation of accurate accounts. More detailed information such as the tables suggested in paragraph 4.10 would also be useful. Such information would, for example, show the inaccuracy of the statement by the Commission in its analysis of the financial management (Title 5, paragraph II (3)):

'Less than 1 million u.a. has been paid against commitments for 1977.'

Table 11 — Sums still to be paid at the close of the financial year 1976

(in u.a.)

Budgetary nomenclature	Authorizations for commitment from 1975 and 1976 for 1977	Appropriations carried forward automatically from 1976 to 1977	Appropriations carried forward from 1974 and 1975 to 1976 written off at the close of 1976 (1)	Authorizations for commitment from 1976 for 1978
500	34 646 928.85	60 635 115.56	—	10 297 012.35
501	15 362 070.46	66 989 762.92	—	5 939 669.50
502	1 647 986.52	16 903 960.58	—	1 117 510.22
503	14 216 813.91	20 570 597.04	—	12 029 885.53
Chapter 50	65 873 799.75	165 099 436.10	99 224 058.72	29 384 077.60
510	126 778 875.82	234 083 327.74	—	41 373 876.01
511	2 753 772.40	29 400 247.34	—	2 294 429.49
Chapter 51	129 532 648.22	263 483 575.08	163 360 977.40	43 668 305.50
Chapter 52	—	651 362.82	—	—
Total	195 406 447.97	429 234 374.00	262 585 036.12	73 052 383.10

(1) The breakdown of credits within chapters is not available.

Table 12 — Breakdown of the payments made in 1977 according to the year of commitment

(in u.a.)

Budgetary nomenclature	Operations concerning years prior to 1977				1977 operations		Total
	1973 Commitments	1974 Commitments	1975 Commitments	Appropriations carried forward from 1976	Authorizations for commitment from 1975 and 1976	1977 Commitments	
500	—	1 897 207.06	8 411 285.66	21 130 244.08	674 325.56	—	32 113 062.36
501	—	—	13 040 429.48	20 160 711.12	129 695.96	—	33 330 836.56
502	—	60 085.96	2 646 025.44	13 758 485.60	104 536.78	—	16 569 133.78
503	—	1 022 709.98	9 062 640.10	8 576 936.96	8 554.30	—	18 670 841.34
Chapter 50	—	2 980 003.00	33 160 380.68	63 626 377.76	917 112.60	—	100 683 874.04
510	119 310.98	4 665 948.38	55 148 730.22	122 493 629.94	—	3 881 361.60	186 308 981.12
511	—	2 397 363.20	11 684 215.24	14 800 136.58	—	—	28 881 715.02
Chapter 51	119 310.98	7 063 311.58	66 832 945.46	137 293 766.52	—	3 881 361.60	215 190 696.14
Chapter 52	—	—	—	597 618.86	—	420 913.72	1 018 532.58
Total	119 310.98	10 043 314.58	99 993 326.14	201 517 763.14	917 112.60	4 302 275.32	316 893 102.76

The correct position is as follows: in 1977 115 million u.a. was paid out of the overall payment appropriations available for use in that year. Of this amount, the Court calculates that 4.3 million u.a. (not 'less than 1 million u.a.' as stated by the Commission), is the correct total of payments attributable to 1977 commitments (see Table 12).

4.13 Nevertheless, this still represents a very slow rate of utilization of payment appropriations. In its analysis the Commission draws attention to delay on the part of Member States in processing their claims as an element in this slow rate of utilization. The Commission goes on, however, to outline the new system of payments coming into force in 1978 which is intended to alleviate this problem. In the interests of sound financial management, the Court is of the opinion that considerable improvements are called for in this area and it intends to examine closely the effect of this new system.

Reply of the Commission

The Commission has made the following reply to paragraphs 4.12 and 4.13:

Payments in 1977 totalled 316 million u.a. compared with 235 million u.a. in 1976, an increase of almost 30 %.

New rules governing the Fund were introduced with effect from 1 January 1978 with the aim (among other things) of improving the method of payments in the future, in particular by means of advances at the beginning of, and midway through, each programme and by introducing the means to accelerate payments in relation to operations carried out prior to 1 January 1978.

In addition, the Commission has decided to make obligatory the use of standard forms for

claims for payment; the Commission has also introduced new administrative rules on the management of the Fund, including a provision setting a time limit for the submission of claims for payment.

Member States have encountered certain difficulties in implementing the new rules, either in failure to designate, within the time limits in the new regulations, the responsible authority to certify claims (which is now a condition of payment) or in correctly using the new forms. The Fund administration has tried to bring about a more general use of the new facilities for payment claims by bringing them to the attention of each Member State and, by personal contacts, helping to resolve the problems in using the new claim forms. A considerable improvement has been noted recently.

Special measures have been taken in order to accelerate the clearing of the back-log, but here again the Member States also have an important role to play by making full use of the new rules, by the correct completion of claim forms and by promptly answering requests for additional information.

Note

4.14 The problems which would have faced the Court of Auditors in any event because of their own need to recruit staff and because of the changes in the accounting arrangements of the Social Fund for 1977, were compounded by the fact that the documents necessary for their audit were not sent to them until a very late stage. The combination of these three factors has prevented the Court from carrying out the thorough review which is necessary and, in particular, no on-the-spot audits have been possible.

Chapter 5 — The European Regional Development Fund

INTRODUCTION

5.1 The European Regional Development Fund (ERDF) was established by Council Regulation No 724/75 of 18 March, 1975. It is part of the Community's effort to promote the harmonious development of the Member States by correcting regional imbalances in accordance with the objectives

laid down in the preamble to and Article 2 of the Treaty of Rome.

5.2 The ERDF provides financial aid in respect of investments of a minimum value of 50 000 u.a.:

- (a) in manufacturing and craft industry and services which are economically viable and are receiving State aids, and

- (b) in infrastructure projects which are either directly linked to such industrial developments or are covered by Article 3, paragraph 2, of the Council Directive on mountain and hill farming and farming in certain less-favoured areas.

5.3 An essential element to be taken into account in the granting of Community aid as regards the first three years of the Fund is the assessment of investment projects in the light of the information given annually by Member States. As from 1978 the assessment is to be made against the background of the regional development programmes worked out within the Member States and submitted in accordance with the provisions of the Regulation, before the end of 1977.

5.4 The following criteria apply in addition to those set out in paragraph 5.2:

- (a) Contribution to the economic development of the region;
- (b) Economic condition of the sector concerned and the profitability of the investment;
- (c) Geographical factors, e.g. whether the investment falls within adjacent regions of separate Member States;
- (d) Whether any other EEC or EIB aid received.

5.5 Member States only may submit investment projects. Projects amounting to or exceeding 10 million u.a. are presented individually and in order of priority. Requests for aid involving sums smaller than 10 million u.a. are submitted jointly and are grouped on a regional basis.

5.6 For its first three years (1975-77) appropriations totalling 1 300 million u.a. (300 million u.a. for 1975 and 500 million u.a. in both 1976 and 1977) were allocated to the ERDF.

5.7 In order to take account of regional imbalances, the appropriations are allocated between Member States on the basis of the national quotas laid down in Article 2 of the basic regulation.

5.8 Most of the operations financed by the Fund are multiannual in character and the amount of

assistance from the Fund is dependent upon national expenditure, the clearance of which can lead to delays. The result is that operations cannot normally be concluded within a single financial year. The special Financial Regulation adopted on 18 March 1975 amended the general Financial Regulation of 25 April 1973 ⁽¹⁾. This special regulation provided that credits entered into the budget for the Regional Fund should be drawn up in the form of commitments and payments. Any commitment credits not utilized at the end of the financial year in which they were entered in the budget were to remain available for the two subsequent financial years.

Commitments

5.9 The position for 1977 was:

	(u.a.)
Commitment appropriations provided	500 000 000
Add unutilized commitment appropriations from 1976	99 394
Commitments from 1975 and 1976 permitted following release of funds	12 375 771
Total available appropriations	512 475 165
Commitments made in 1977 (97.86 %)	501 781 350
	10 693 815

5.10. Of the total amount of 501 781 350 u.a. as much as 212 550 000 u.a. (42 %) was committed in December 1977, the remainder being committed in January, April and July.

5.11 Of the 10.7 million u.a. appropriations not committed at 31 December 1977, the greater part remained uncommitted because an insufficient number of projects had been submitted by Germany to absorb her quota prescribed in Article 2 of the basic Regulation.

⁽¹⁾ For 1978 the new general Financial Regulation of 21 December 1977 applies.

Table 13 — Regional Fund grants per country
Commitments

Member State	1975 u.a.	1976 u.a.	1977 u.a.	Total u.a.	Nonutilized appropriations (u.a.)	Distribution on the basis of % set by Article 2 of Regulation 724/78		Utilization rate (%)
						(%)	million u.a.	
Belgium	4 043 957	6 667 391	8 618 998	19 330 346	2 986	1.5	19.33	100
Denmark	3 762 971	6 416 136	6 576 449	16 755 556		1.3	16.76	100
FR of Germany	9 403 465	19 742 009	42 828 530	71 974 004	10 514 885	6.4	82.49	87.3
France	46 006 288	76 463 566	70 855 865	193 325 719	7 614	15.0	193.33	100
Ireland	18 976 974	34 546 482	30 308 215	83 831 671	168 329	6.0 ⁽¹⁾	84.00	99.8
Italy	123 591 576	204 228 640	192 179 784	520 000 000		40.0	520.00	100
Luxembourg	750 000	—	538 889	1 288 889		0.1	1.29	100
Netherlands	5 585 571	10 002 182	6 323 358	21 911 111		1.7	21.91	100
United Kingdom	80 737 256	136 600 370	143 551 263	360 888 889		28.0	360.89	100
Total	292 858 058	494 666 776	501 781 351	1 289 306 185	10 693 814	100.0	1 300.00	99

⁽¹⁾ Regulation 724/75 also provided for an additional grant of 6 million u.a. to Ireland during the period 1975-77 deducted from the other Member States' shares except that of Italy.

5.12 During 1977, 378 requests involving 2 020 projects were approved, of which 151 (657 projects) were related to industrial investments and 227 (1 363 projects) to infrastructure.

large infrastructural projects received aid from the Regional Fund in 1977.

Payments

5.13 The total amount of investments of the projects receiving Community aid in 1977 was 4 498 million u.a. of which 2 520 million u.a. were for industrial projects and 1 978 million u.a. for infrastructural projects.

5.16 The total appropriations made available for payment in 1977 amounted to 482 million u.a. of which 400 million were for the 1977 financial year and 82 million u.a. were carried over from 1976.

5.14 41.3 % of commitment appropriations were for industrial projects and 58.7 % for infrastructure. These figures show a marked change from 1976 when the figures were 25 % and 75 % respectively.

5.17 Total payments were 372 507 973 u.a., i.e. 77 % of the appropriations available for the financial year. The appropriations carried forward were used up first. 290.5 million u.a. of the 400 million u.a. of payment appropriations for 1977 were utilized, while 109.5 million u.a. were carried forward to the following financial year to be added to the 525 million EUA payment appropriations in the budget for 1978.

5.15 39 large industrial projects (i.e. where the value of the project exceeded 10 million u.a.) and 29

Table 14 — Payments per country during the first three years of the Fund

(in u.a.)

Member State	1975	1976	1977	Total
Belgium	—	6 114 369	2 824 873	8 939 242
Denmark	1 555 770	3 983 466	5 762 825	11 302 061
FR of Germany	—	13 348 230	24 891 041	38 239 271
France	16 125 645	28 866 586	45 827 916	90 820 147
Ireland	6 995 689	18 031 799	22 111 185	47 138 673
Italy	44 296 055	112 863 870	149 516 957	306 676 882
Luxembourg	227 279	405 840	116 881	750 000
Netherlands	2 849 313	5 448 268	2 817 352	11 114 933
United Kingdom	18 618 298	88 269 301	118 638 943	225 526 542
Total	90 668 049	277 331 729	372 507 973	740 507 751

5.18 The total of payments made was slightly less than the total of payments requested, which amounted to 382 million u.a. The greater part of these requests (54 %) were received in December, which partly explains why the payments made lagged behind the available appropriations.

5.19 For the financial years 1975-77 the payments amounted to 740.5 million u.a., i.e. 87 % of the available payment appropriations (850 million u.a.). The total of the payments, however, represents only 57.4 % of the committed expenditure. This situation arises because payments from the Fund are made concurrently with the national payments and on submission of quarterly certificates of actual expenditure. The rate of payment thus depends on the speed at which the projects are carried out. After a certain time this rate falls pending the completion and acceptance of the works. In order to avoid the difficulties which would arise from the increasing amount of unpaid commitments, the Commission proposed that advances could be made in certain conditions.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 5.19:

As regards payments by the Fund, the Commission requires the Member States to submit quarterly statements of actual expenditure and detailed supporting documents containing the information required under the Fund Regulation.

This system of management has enabled the Commission to provide aid totalling 11 700 million u.a. for over 4 700 projects over the period 1975-77. It has also enabled the Commission to make prompt payments in response to the applications. For the same period these amounted to only 740 million u.a. or 57 % of commitments. This slow rate of utilization of appropriations for payment is mainly due to the following factors: first, the Fund's operations are intrinsically long-term measures; it takes several years to carry out a project (e.g. construction of a road) and experience has shown that payments are made on average over a period of five years; secondly, payments by the Fund are a partial reimbursement of Member States' own regional aids, which are sometimes subject to additional conditions. The Commission has proposed to the Council that a system of advances to the Member States be introduced to speed up the rate of utilization of appropriations for payment.

Table 15 — Overall situation 1975-77

(in u.a.)

Member State	Total commitments	Total payments	Commitments Payments (%)	Amounts committed and not cleared	Appropriations not committed
Belgium	19 330 346	8 939 242	46	10 391 104	2 986
Denmark	16 755 556	11 302 061	67	5 453 495	—
FR of Germany	71 974 004	38 239 271	53	33 734 733	10 514 885
France	193 325 719	90 820 147	47	102 505 572	7 614
Ireland	83 831 671	47 138 673	56	36 692 998	168 329
Italy	520 000 000	306 676 882	59	213 323 118	—
Luxembourg	1 288 889	750 000	58	538 889	—
Netherlands	21 911 111	11 114 933	51	10 796 178	—
United Kingdom	360 888 889	225 526 542	62	135 362 347	—
Total	1 289 306 185	740 507 751	57	548 798 434	10 693 814

Supervision of the European Regional Development Fund

General

5.20 In 1977 the Commission carried out a check on 119 investments, 48 of which related to industry and 71 to infrastructures. In accordance with the basic regulation, these checks are organized by the national authorities, at the request of the Commission, whose officials may take part in such operations. Officials of the Audit Board have participated in two of the operations in question (covering 13 projects) in the Midi-Pyrenees and South Wales regions.

Specific comments

(a) Midi-Pyrenees

5.21 In the course of the visit arranged in the French region of the Midi-Pyrenees audits were carried out on six industrial projects and three infrastructure projects.

5.22 It was not possible to verify the industrial investments by way of physical inspection nor to examine the extent to which they conform to the projects financed by the ERDF. The national authorities have confirmed that only in exceptional cases are on-the-spot checks carried out.

5.23 For infrastructure investment, visits to the construction sites have not enabled the control teams to establish whether these conform to the projects

submitted to the ERDF, because it was difficult to identify which part of the project benefited from Community aid. Supporting documents relating to expenditure and certificates from the national authorities were not considered as completely satisfactory in that original documents were not available.

5.24 Part of the expenditure on infrastructure for which financial aid was requested did not represent actual outlay as it was based on an estimate. Consequently it was necessary to postpone the check on the actual expenditure.

5.25 The Court understands that these problems have been discussed by the Commission with the French authorities in order to facilitate the on-the-spot checks.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 5.21 to 5.25:

The arrangements by the French authorities for the inspection of industrial projects have been such that Commission officials were not allowed to visit the projects concerned; the checks had therefore to be limited to the examination of documents held by the responsible authorities. This matter is currently the subject of discussion between the Commission and the French authorities.

(b) South Wales

5.26 During these audits four industrial projects were visited, one of which had a value of more than 10 million u.a.

It was established in the course of the audit that under UK law as it relates to aid for regional development, the granting of aid is not always dependent on the creation of new jobs or the safeguarding of existing ones. On the basis of the 1972 Industry Act, regional development grants to companies situated in assisted areas are not directly related to employment but to the fact that the investments are of a specific qualifying type. This may cause problems to checking statements in relation to Community aid since the companies are not used to inspections aiming at definite assessment of the number of jobs created or maintained. Nevertheless, they have normally shown themselves prepared to provide proof of the creation of new jobs.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 5.26:

The Court's comments on job creation in the United Kingdom could be misleading. In particular, the local officials concerned pay careful attention to the employment aspect where a selective financial aid is concerned. The proportion of jobs in activities qualifying for aid (e.g. manufacturing) must be taken into consideration by the UK central authorities even where the European Regional Development Fund is involved. Where possible, the Commission endeavours to locate supporting documents establishing that jobs have been created in the United Kingdom Government's files.

OTHER REMARKS

5.27 Checks are carried out in the various countries whose methods and powers sometimes differ greatly. Such differences stem to a considerable degree from the national legislation itself, from special inspection arrangements or from practices in force between national authorities and the private and public investors in the relevant projects. The Court of Auditors is of the opinion that the Commission should make an effort to establish a system to secure uniformity in the extent of the checks carried out in the various Member States.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 5.27:

Under Article 9 of the Fund Regulation, on-the-spot checks or enquiries about operations financed by the Fund are made, at the request of the Commission and in agreement with the Member State, by the competent authorities of the Member State. Commission officials may take part in them and the Commission may fix a time-limit for carrying them out.

The Commission always uses the same procedure for on-the-spot checks. It has given the Court of Auditors a copy of its instructions for such checks (which are drawn up by the authorizing officer) and the forms which are normally used for the report on the inspection visits. The Member States apply different rules and procedures for the supervision of projects, but during these inspections the Commission tries, as far as possible, to obtain the information necessary for the correct and uniform application of the Fund Regulation in all the Member States. If the inspections carried out by the national authorities do not produce the information required by the Commission for correct management of the Regional Fund, the Commission calls for the inspections to be adapted accordingly and for the different types of administrative procedures used to be harmonized with the Fund Regulation.

5.28 The following other points concerning on-the-spot checks deserve further attention.

- (i) Time allotted for on-the-spot checks is very limited due to the number of the projects and the lack of personnel.
- (ii) The check on the creation of new jobs is sometimes inadequate. It is often limited to collecting statements from the relevant firms. This is partly due to the limits imposed on the length of the inspection operation, as mentioned in (i) and partly to the fact that some Member States treat job creation as an element of secondary importance in stimulating regional development.
- (iii) In certain cases requests for payment have been based on estimates of expenditure and not on actual expenditure.
- (iv) Access to original invoices has proved difficult in a few cases.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 5.28:

The Commission is of the opinion that the Regulation normally requires jobs to be created once the sectors concerned are fully operational, and the number of jobs created does not have to be shown in the pay sheets on the day of the inspection. Furthermore, as long as jobs are saved or ten new jobs are created by means of aid from the Fund, and as long as investment benefiting from aid does not exceed 100 000 u.a. per job created, the Commission can hardly call for a reduction in Fund aid unless it can prove that the nature of the investment receiving aid has changed.

During the checks, the Commission departments concerned endeavour to establish the creation of jobs, and their inspections include an examination of the supporting documents. Statements by firms are of value only as a guide. The Commission considers that the Member States generally do their utmost to comply with the Commission's request in this area.

Applications for payment are no longer based on estimates of expenditure. Payment is made on the basis of actual expenditure. The Member States have complied with the provisions of the Regulation.

The financial management

5.29 A continuing problem during the first years of operation of the Fund has been the inadequacy of the information given by the Member States to the Commission concerning their regional development programmes. In the absence of such information it is difficult for both the Commission and the Court to assess the impact of the Fund on the regions and in particular to evaluate the way in which Community aid complements national aid as foreseen in the Regulation governing the employment of the Fund. The Court notes that, in accordance with the provisions of the Regulation, the Member States started at the end of 1977 to provide the Commission with details of their regional development programmes, and the position should now improve. This supplementary information will enable the Court to form a more comprehensive view of the results of the Fund.

5.30 The coordination of the various structural policies and financial instruments of the Community is recognized as essential to the implementation of a sound Community regional policy. The results obtained from this coordination are difficult to assess however. In order to judge the efficacy of the financial management the Court would welcome an assessment, by the Commission, of the results obtained from the ERDF, and of those which have been obtained through coordination with other policies. This assessment could usefully review the means used to achieve the objective set for regional policy and the possibility of using other instruments for these purposes (e.g. fiscal policy).

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 5.29 to 5.30:

The projects submitted by the Member States for aid from the Fund must form part of regional development programmes designed to help redress the main regional imbalances in the Community which could affect the achievement of economic and monetary union. The Court of Auditors rightly emphasizes the progress recently made in this sector.

When implementing its regional policy, the Commission makes every effort to coordinate its structural financial instruments, in order to make more efficient use of the Community's limited resources, render the measures more effective and apply the financial instruments in accordance with rational principles of efficiency. The Commission has made a systematic effort to coordinate all its activities, by opening up communication between departments, creating interdepartmental groups, simplifying procedures and making wider use of the delegation of powers for routine decisions. The Commission has made a special effort to coordinate its financial instruments, by setting up the EIB (European Investment Bank) interdepartmental group and the interdepartmental group for the coordination of financial instruments within the Commission. The purpose of the latter group is to provide an overview of problems shared by several or all the financial instruments. In January 1977 the Commission expressly instructed one of its members to coordinate the Community funds and implement a consistent policy for all the other means of structural

financial intervention. This Member has a permanent working party for this purpose, comprising officials of the Commission Directorates-General concerned.

These various coordination measures have thrown up many suggestions, several of which have been adopted by the Commission itself in the texts presented to the Council.

However, it is still too early to assess the results achieved by the Regional Fund in view of its relatively recent start.

5.31 When submitting applications for aid Member States do not supply the documents containing the decision to grant national aid, nor the documents and reports by which that decision is justified.

Even though, according to the present regulation, the selection and submission of investment projects is the prerogative of the Member States and even though the present arrangements have had the result of avoiding the accumulation of the projects, it is still necessary to ensure that the evaluation of these projects by the Commission is based as largely as possible on documentary evidence from Member States and not limited to the basic details indispensable to fulfil the requirements of the Regulation. The same applies to changes relating to the nature, the cost and the time schedule of the project programmes provided.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 5.31:

Financial management

The applications for aid from the Fund are presented to the Commission by the Member States in accordance with the appropriate Regulation. The applications must be supported by information enabling the Commission to judge the value of the investments in the light of the criteria laid down by the Regulation. The Commission ensures that the Member States provide it with all the information listed in detail in Article 7 of the Regulation. It takes its decisions in the light of this information, the overall development programmes notified by the Member States and the priority objectives which it has laid down.

The Commission believes that, to avoid unacceptable delays, there is no need to carry out any more detailed examination than that provided for by the Regulation when the application is first examined. However, when the utilization of funds is being checked, all other relevant documents may be taken into consideration.

Table 16 — Numbers of projects approved by the ERDF in 1975 and 1977

Member State	1975	1976	1977	Total	Industry service	Infra- structure	Mountain agriculture	+ 10 million u.a.		— 10 million u.a.	
					1975-1977	1975-1977	1975-1977	Industry 1975-1977	Infra- structure 1975-1977	Industry 1975-1977	Infra- structure 1975-1977
Belgium	36	28	47	111	16	94	1	3	—	13	95
Denmark	34	42	59	135	27	108	—	1	1	26	107
Germany	64	196	410	670	426	244	—	15	3	411	241
France	232	209	184	625	385	234	6	15	8	370	232
Ireland	105	89	73	267	84	149	34	6	2	78	181
Italy	174	282	736	1 192	323	165	704	12	39	311	830
Luxembourg	1	—	1	2	—	2	—	—	—	—	2
Netherlands	3	8	5	16	—	16	—	—	4	—	12
United Kingdom	534	691	505	1 730	343	1 323	64	33	28	310	1 359
Total	1 183	1 545	2 020	4 748	1 604	2 335	809	85	85	1 519	3 059

Chapter 6 — Research, investment and energy appropriations

Research and investment

INTRODUCTION

6.1 The crisis period through which the Joint Research Centre passed from the late 1960s to 1973 led the Community to review its research policy and set it in a wider context.

Since at this time a tendency was emerging to place more emphasis on nuclear research within a national context and a preference was expressed for the light-water reactor, the Commission was obliged to diversify into other areas of nuclear research and on the basis of Article 235 of the EEC Treaty, to attempt to find some new non-nuclear activities which could be set in the framework of a common policy for the scientific and technical field. Accordingly, the first four-year programme (1973-76) aimed at the introduction of some non-nuclear activities. At the same time a distinction was drawn between direct and indirect actions.

Direct action

6.2 Direct action comprises the research carried out at the Joint Research Centre, which consists of four separate establishments:

- the Ispra Establishment in Italy,
- the Central Office for Nuclear Measurements at Geel in Belgium,
- the Karlsruhe European Transuranics Institute in Germany,
- the Petten Establishment in the Netherlands.

Indirect action

6.3 Indirect action consists of research carried out by public or private bodies in the Member States on the basis of contracts concluded by the Commission. Its purpose is to integrate research capacity at the national level into a scientific and technical policy at Community level.

1977-80 programme

6.4 For the Joint Research Centre the 1977 financial year was notable for the adoption of a new

multiannual programme (1977-80) which assures the continuance of Community research. The decision of the Council of Ministers ⁽¹⁾ — which came, after a delay, on 18 July 1977 — envisages in the context of direct action a programme which concentrates on 5 central subjects, namely nuclear security, future energy supplies, the environment and resources, reference measures, standards and techniques (METRE) and activities of the Commission in support of Community policies.

6.5 These subjects are translated into 13 programmes (objectives) which in turn are divided into 38 research projects, relating both to nuclear and non-nuclear activity.

Management of the programme

6.6 The Joint Research Centre has appointed managers for the different programmes who work under their respective directors at Petten, Karlsruhe or Geel or at Ispra under the Projects Director. The Court of Auditors finds, however, that, at the time of writing this Report, the Joint Research Centre has still not succeeded in finding a person of repute to be Projects Director at Ispra. This post fell vacant in November 1977 and has been filled temporarily by another member of the Directorate.

6.7 The research provided for in the four-year programme is carried out by the four establishments in close collaboration with the thirteen Advisory Committees on programme management, which were set up by resolution of the Council of Ministers on 18 July 1977 ⁽²⁾. The programme managers are responsible for producing activity sheets and for revising them during the year. (An activity sheet gathers together all of the scientific, personnel and financial data.)

The programme managers keep in contact with those who are responsible for the projects and follow the progress of the research. They have the particular role of making the reports on the state of research which are submitted three times a year to the Advisory Committees.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 6.7:

⁽¹⁾ OJ L 200 of 8. 8. 1977.

⁽²⁾ OJ C 192 of 11. 8. 1977.

The main object of the activity sheets is to show the budget appropriations available for a project whose implementation is shared out amongst several units. They are subsidiary accounts which help the person responsible for a project to keep an eye on the rate of consumption of the relevant appropriations. They are not designed to assist in controlling the quality or progress of the research project.

Comment of the Court of Auditors

The Court notes what the Commission says in the last sentence of its reply but recommends that this matter be studied to see what role activity sheets could play as an additional tool in the difficult task of controlling the progress of research projects.

6.8 Apart from strengthening the management on the scientific side and the work appraisal procedures, the Joint Research Centre, in particular the establishment at Ispra, has made a number of changes and modifications in the scientific departments which are aimed at adapting them to the new demands of the research programme and towards a better utilization of capacity in terms of staff and technical resources. The Court of Auditors notes in addition that the Joint Research Centre consults national experts, in the context of the Advisory Committees, on the question of scientific management.

6.9 The observations which arise from the audit activities of the Court of Auditors (which on this occasion were limited to direct action) relate to:

- Ispra (in particular the ESSOR reactor),
- Karlsruhe (in particular the investment programme).

Execution of the 1977 budget

6.10 As regards execution of its budget in 1977 the Joint Research Centre was obliged to work with provisional appropriations, which were then transferred to the various Chapters once it was provided with its second amending and supplementary budget in November 1977.

6.11 The commitment appropriations covering research activities under Chapter 33 of the budget amounted to 351 752 194 u.a. in 1977, including 213 260 197 u.a. provided for in the initial budget, less 30 812 357 u.a. in the supplementary budgets, plus 168 532 841 u.a. remaining at the close of the previous financial year and 771 513 u.a. made available by cancellations of previous commitments.

The utilization of these appropriations, as well as additional sums relating to contributions on behalf of third parties and the recovered sums which were re-used are shown in Table 17 below.

Table 17

(in u.a.)				
Origin	Commitment appropriations at 1. 1. 1977	Commitments entered	Appropriations cancelled	Appropriations remaining at 31. 12. 1977
Budget	351 752 194	218 638 386	8 507 485	124 606 323
Work for third parties	33 092 271	21 999 994	416 296	10 675 981
Re-use	1 719 864	649 182	156 121 ⁽¹⁾	914 561
Total	386 564 329	241 287 562	9 079 902	136 196 865

⁽¹⁾ Sum transferred to the statement of revenue.

6.12 The payment appropriations of 183 337 388 u.a. made available in the initial 1977 budget were brought down to 180 870 703 u.a. by the amending and supplementary budget.

Table 18 is an outline of the rate of utilization of the appropriations for payment entered in the budget, the additional sums relating to services to third parties and the appropriations for payment available for re-use.

Table 18

(in u.a.)

Origin	1977 payment appropriations	Payments	Appropriations carried forward to 1978	Appropriations cancelled
<i>Budget</i>				
(a) Appropriations for the financial year	180 870 703	103 258 825	70 540 216	7 071 662
(b) Appropriations carried forward from 1976	33 356 502	26 554 853	—	6 801 649
<i>Work for third parties</i>				
(a) Appropriations for the financial year	29 479 687	13 747 705	13 957 401	1 774 581
(b) Appropriations carried forward from 1976	14 083 690	5 901 060	—	8 182 630
Re-use	1 719 864	649 182	914 561	156 121 ⁽¹⁾
Total	259 510 446	150 111 625	85 412 178	23 986 643

⁽¹⁾ Sum transferred to the statement of revenue.

6.13 Table 19 below outlines the progress in 1977 of the settlements of commitments.

Table 19

(in u.a.)

Origin	Commitments	Payments	Cancellations	Commitments outstanding at 31. 12. 1977
<i>Financial year 1977</i>				
— Budget	218 638 386	104 785 242	—	113 853 144
— Work for third parties	21 999 994	13 699 029	—	8 300 965
— Re-use	649 182	649 182	—	—
<i>Previous financial years</i>				
— Budget	43 427 152	25 028 436	1 162 698	17 236 018
— Work for third parties	14 202 593	5 949 736	158 280	8 094 577
Total	298 917 307	150 111 625	1 320 978	147 484 704

The relatively low utilization rate of commitment and payment appropriations is mainly due to the blocking in 1977 of appropriations for JET (Joint European

Torus). This situation had a similar effect on certain related research programmes.

6.14 The Statutes of JET were approved on 30 May 1978 following the decision of principle taken by the Council of Ministers in the autumn of 1977 to launch this joint project. Article 12 of the Statutes of JET provides for external audit to be carried out by the Court of Auditors.

6.15 On 23 May, at the invitation of the Commission, the Court of Auditors gave its opinion on the draft financial regulation foreseen in Article 11 of the Statutes. The final regulation was adopted by the JET Council in July 1978.

Observations

Ispra

6.16 The Court's audit of the 1977 accounts of the Ispra establishment gives rise to the following observations concerning the financial management of the centre and the management and supervision of the ESSOR complex.

The financial management

6.17 Under an agreement with the University of Pavia, Ispra pays the University 16 000 u.a. annually for 900 hours use of the 'Euracos' converter. Ispra, however, only made use of this facility for 27 hours in 1976 and for 71 hours in 1977. This low rate of utilization also reflects adversely on the Commission's decision to spend over 450 000 u.a. on transferring the converter to the University.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 6.17.

The technical aspects of the contract concluded with the University of Pavia (Euracos) are complicated and may be summarized as follows:

- *what is involved is a large device ($6 \times 4 \times 3$ m) permanently installed in the reactor's thermal column. The agreed price includes permanent rental and the costs of installation;*
- *the 900 hours agreed in the contract is a ceiling which seeks to guarantee users the essential freedom of manoeuvre;*

— *apart from the actual hours of irradiation during experiments, a considerable amount of time is spent on preparatory work and on the calculations to interpret the results. In this context, the number of hours of irradiation, whether in 1976 or 1977, cannot possibly be used to judge the effectiveness of the installation.*

As far as the expenditure relating to the transfer of the Euracos experiment from Ispra to Pavia is concerned, it should be pointed out that they included not only dismantling, transport and preparation of the new site, but also unavoidable modifications and the cost of the services provided by the central workshops at Ispra.

Comment of the Court of Auditors

The Court is of the opinion that the Commission should have taken more effective steps to ascertain their probable rate of usage of this facility before embarking on the expenditure involved.

6.18 Following the closure of the Ispra I reactor the 'Rabbit' circuit was installed in the ESSOR reactor at a cost of 603 000 u.a., so that an irradiation facility would continue to be available at the centre. Up to the end of 1977 no use has been made of this circuit since it was installed in 1976.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 6.18.

In accordance with the current rules, it was not possible to bring the 'RABBIT' circuit into service until the irradiation and operating manuals had been approved by the body of safety delegates. Approval was received on 13 December 1977 and the period that elapsed before the circuit went into operation was normal for the installation.

Comment of the Court of Auditors

The Court of Auditors does not accept that such delays, which can lead to expensive equipment standing idle for long periods, can be considered

as normal. It recommends that, if similar cases arise in future, the Commission should make arrangements to obtain the necessary safety approvals at a much earlier stage.

6.19 Heavy water worth about 500 000 u.a. taken from the Ispra I reactor and deposited for reconcentration in the ESSOR reactor in 1974 remains there to this day. No steps have been taken to realize the value of this asset, which appears to be surplus to the requirements of the JRC.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 6.19.

Keeping the stock of heavy water from the Ispra I reactor is good management — heavy water is a material whose procurement from now on will be difficult and will involve long delays and high costs. By keeping the existing quantity, the JRC has ensured that it has an emergency stock for operating the ESSOR reactor, and the commercial value of the commodity will not decrease with time.

Comment of the Court of Auditors

The Court is of the opinion that if this heavy water is really required as emergency stock for the ESSOR reactor then it should be paid for by the Italian Government under the arrangements for financing the ESSOR complex. If the Italian Government is not willing to pay for this material the assumption must be that it is not genuinely required for this purpose and the Commission should dispose of it to best advantage.

ESSOR COMPLEX

Introduction

6.20 Acting under Article 6 (c) of the Euratom Treaty, the Commission placed the ESSOR reactor at Ispra, and its associated installations and the staff stationed there, at the disposal of the Italian Government for the period from 1 March 1973 to 31 December 1976. Under the implementing

agreement, signed in October 1973, the JRC was made responsible for the management of the complex and for the supervision of a new investment programme to increase the experimental capacity of the reactor. Investment decisions were the responsibility of a management committee consisting of six members nominated by the Italian Government and three members nominated by the Director-General of the JRC. As well as meeting the running expenses of the complex during this period, the Italian Government, was to make available a sum of 18 million u.a., later increased to 24 millions u.a., to cover the costs of new investments.

6.21 When this agreement ran out at the end of 1976 the project continued without contractual cover until September 1977 when a new contract, with similar terms and covering the calendar year 1977, was signed by the Commission and the Italian Government. At the time of writing this report, there is no legal cover for the continuance of this project beyond the end of 1977. However, it is understood that the Italian Government has notified to the Commission its intention to suspend investments but to meet unavoidable expenditure on the ESSOR complex until the end of 1980.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 6.20 and 6.21.

ESSOR complex

As already stressed in the introduction to this Chapter, the Commission must recall that the ESSOR installation is not part of a Commission research programme under Article 7 of the Euratom Treaty. The installation is Community property and, since 1973 and in application of Article 6 (c) of the Euratom Treaty, it has been at the disposal of the Italian Government for the purpose of carrying out programmes and other work decided on and financed by that Government. The contractual arrangements set out in 1973 and extended to the end of 1977 make the management of the contracts the responsibility of a committee in which the Italian Government has a two-thirds majority.

Although part of the appropriations for financing the ESSOR complex are shown in the Commission budget, and the Commission is therefore signatory to undertakings towards third parties, it must be stressed that commitments of this kind are made only on the basis of decisions by the abovementioned

management committee. In the last resort — under Article 3.2 of Annex III of the contract — it is not the Commission that bears the financial consequences of such decisions but the Italian Government. It is correct that the contract covering the 1977 financial year was not signed until September 1977. Between the beginning of the year and September, ESSOR activity was covered by a letter of intent from the Italian Government dated 11 February 1977 and renewed on 22 June; it indicated the Government's intention of extending the validity of the contract, authorized the Commission to continue its activities and guaranteed repayment of the Commission's expenditure.

Moreover, the programme decision adopted by the Council in 1976 provides that, up to 31 December 1980, the Italian Government shall bear the cost of the operations of the ESSOR complex. This was confirmed for 1977 by entries in Annex I (Research and investment) of the Commission budget (remarks on Article 929 of the statement of revenue and Item 1090, the appropriation account).

As regards 1978, the Commission would refer to the remarks on Article 333 of the budget which again confirm the obligations of the Italian Government.

Management and supervision of the new investment programme

IRA circuit

6.22 In March 1974 the institution entered into a contract with a company for the design and construction of an advanced reactor exposure circuit (IRA) for the ESSOR reactor at a price of 576 000 u.a. The contract, which was placed by private treaty on the grounds of the firm's great experience in the field concerned, provided for completion of the project by November 1975, but an extension of the contract period to May 1976 was later agreed. When the contract was terminated in May 1976 the contractor had not even completed the preliminary study of the circuit. Nevertheless the firm was paid the full contract sum of 576 000 u.a.

In 1977 a further payment was made to the firm, over and above the contract sum, of 34 400 u.a. for quality assurance work said to have been carried out before 1976.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 6.22.

The decision to use the sum initially agreed in the IRA contract for preliminary and safety studies and for the supply of certain parts, was taken by the Italian authorities acting within the Management Committee and after a detailed study by the supervisory authorities.

However, it cannot possibly be said that the contractor received payments in advance of completion and verification of his work. The work was almost completed by May 1976 which was why in June 1976 he was paid 515 000 u.a., i.e. the total sum minus the proportion held as a guarantee. Most of this guarantee (LTT 30 000 000) was not paid until August 1978 (after discussions and approval given in the final report submitted in January 1978). The Commission does not see where the abuse might lie — no payment was made until work had been completed and verified.

The work in question was not originally provided for in the IRA contract. It was ordered following a decision by the Management Committee in January 1976. The quality assurance was required by the authorities responsible for issuing the requisite authorization on safety.

6.23 It is understood that the institution is now considering proposing that the construction of this circuit should not now go ahead although no official decision has been taken yet.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 6.23.

The Commission wishes to stress that it does not itself envisage taking a decision of any sort — it is for the Italian Government to take a decision in due course and the Commission will then comment on that decision.

6.24 Also in March 1974 the institution placed contracts with two Italian companies for design studies for a boiling water circuit (CABIRIA) and a pressurized-water circuit (CLEOPATRA) for the ESSOR reactor. The value of the contracts was 2 073 920 u.a. and, again, they were placed by private treaty. The original date for completion of these studies was December 1975 but an extension to June 1976 was later agreed. In February 1976, well before the design studies had been completed and

before the concepts had been approved by the Italian safety control authorities, the institution went ahead and placed construction contracts valued at about 19 000 000 u.a. with the same two firms. As at 31 December 1977 the design studies had still not been completed, nor had the concepts been approved by the appropriate safety authorities.

6.25 In the period up to 31 December 1977 the Commission made payments amounting to 7 898 379 u.a. to the two firms, 2 550 000 u.a. in respect of the design studies and the balance in respect of the construction contracts. The total commitments on these contracts entered in the accounts is 11 599 200 u.a., but the full contractual obligations amount to over 19 000 000 u.a. In February 1978 the institution asked the contractors to put the contracts into abeyance and consideration is now being given to abandoning these circuits so that the funds which would thereby be released can be used to finance the SARA circuit (see below). The financial and legal consequences of these developments, which could be considerable, have not yet been clarified.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 6.24 and 6.25.

As concerns the CABIRIA and CLEOPATRA circuits, the Commission emphasizes that, although construction should not have commenced before the official authorization by the safety control authorities was issued, the delays involved are too long for work to be suspended entirely whilst awaiting formal decisions. The safety control studies were far more advanced than one would suppose from the report. As for the time it takes the safety authorities to issue the authorizations, the Commission has no power to reduce this and therefore disclaims all responsibility.

With regard to the Court of Auditors' comments as to the difference between the sums committed under the budget and what it calls legal commitments, the Commission draws attention to the fact that the contracts covering construction of the two circuits include a clause permitting cancellation for justifiable reasons, particularly substantial changes in the construction programme and the research agreed in the contract with the Italian Government. Whilst awaiting renewal of the contract with the Italian Government on the management of the ESSOR complex in 1977, the Commission did not feel it was necessary to cancel the contract as

it was in a position to suspend execution with the agreement of the contractors and the Italian Government. In these circumstances the Commission felt that it was not necessary to undertake further commitments in respect of work which might be continued. What is more, there need be no fear of financial or legal consequences for the Commission since the responsibility lies with the Italian Government.

SARA circuit

6.26 In November 1974, the Commission entered into a contract with the United Kingdom Atomic Energy Authority for a feasibility study regarding a high-pressure circuit (SARA) for the ESSOR reactor. The original value of the contract, which was placed following an open tendering procedure, was 30 000 u.a. but subsequent amendments to include the design of the circuit raised the value to 649 000 u.a. and extended the completion date to November 1976. In December 1976 the same body was awarded by private treaty the contract for the construction of this circuit at a cost of approximately 19 000 000 u.a., although the design of the circuit had not then been approved by the Italian safety control authorities. No appropriations were available to meet the cost of construction at the time the contract was signed. A clause in this contract, however, limits the Commission's liability to 5 284 000 u.a. until the United Kingdom Atomic Energy Authority is otherwise notified in writing.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 6.26.

As far as the SARA circuit is concerned, in accordance with a standard practice approved by various authorities a private contract was awarded, making the following stipulations from the outset (the last two points were made to cover eventualities):

- feasibility study (contract and addendum No 1) amounting to 36 400 u.a.
- preliminary study (addenda Nos 2 and 3) amounting to 592 800 u.a.
- construction (addenda Nos 4 to 8 amounting to 19 488 000 u.a. 5 284 000 u.a. which were

authorized for commitment in 1977 and then reduced to 1 206 000 in January 1978 under addendum No 7.

Firm legal commitments which are clear and enforceable have regularly been covered by similar monetary commitments.

Table 20 — This table summarizes the position at 31 December 1977 on the four circuits

Circuit		Contract sum	Commitments	Payments
IRA	System study and design	78 400		
	Construction	465 600	576 000	576 000
	Putting into service	32 000		
	Amount paid over and above the contract sum (see above)		34 400	34 400
	Sub-total	576 000	610 400	610 400
CABIRIA/ CLEOPATRA	System study and design	2 073 920	2 073 920	2 550 000
CABIRIA	Construction	7 160 000	6 533 600	
CLEOPATRA	Construction	5 520 000	5 025 600	5 348 379
	Revised price	6 397 484		
	Sub-total	21 151 404	13 633 120	7 898 379
SARA	System study and design	679 200	679 200	679 200
	Construction	19 488 000 ⁽¹⁾	5 284 000	595 212
	Sub-total	20 167 200	5 963 200	1 274 412
Grand total		41 894 604 ⁽²⁾	20 206 720	9 783 191

⁽¹⁾ The Commission's liability at 31 December 1977 was limited to 5 284 000 u.a.

⁽²⁾ Compared to the sum of 24 000 000 u.a. made available by the Italian Government for the new investments programme.

6.27 In view of the Italian Government's notification that it is to suspend investment in the ESSOR complex there must be real doubt as to whether any of the circuits described above will now be completed and whether any value will be obtained from the large sums of money already spent under these contracts. As the Commission has no contractual cover for the period after the end of 1977 it may be at risk concerning the contractual obligations still outstanding on the CABIRIA/CLEOPATRA and SARA contracts.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 6.27.

In the case of the CABIRIA and CLEOPATRA contracts and the SARA contract, the Commission has executed the proposals of the management committee in accordance with the

contracts and the Financial Regulation and cannot therefore, in the final analysis, be called upon to bear the financial responsibility.

Comment of the Court of Auditors

While this interpretation of the Commission's financial responsibility may be legally correct, the Court of Auditors is nevertheless of the opinion that it presents too narrow a view of the Commission's actual responsibility in this matter. Since the Commission is charged with the management of the ESSOR complex and with the supervision of the investment decisions, the Court of Auditors considers that the Commission cannot absolve itself completely from the wasteful expenditure inherent in the events described above.

The Court is reinforced in this view by the following considerations:

- (i) that the Commission has a general responsibility for encouraging value for money from research expenditure in the Community;
- (ii) that the Commission has a direct responsibility to promote the good reputation of the ISPRC research centre; and
- (iii) that, since ESSOR was originally a Community facility the Commission should take what measures it can to ensure that the best use is made of it, notwithstanding that it has now been placed at the disposal of the Italian Government.

Purchase and holdings of fuel elements and enriched uranium for ESSOR

6.28 In November 1974, the Commission placed a contract valued at 1 439 200 u.a. with a US company for the supply of 48 fuel elements and 11.5 kg of enriched uranium. An advance payment of 774 734 u.a. representing 30 % of the price for the manufacture of the fuel elements and the total price of the uranium was paid by the Commission when the contract was signed in 1974. Under the contract, delivery of all the items should have been completed by September 1976, but as at April 1978 only 19 of the fuel elements and none of the uranium had been delivered to Ispra. No decisive action has been taken by the Commission concerning the late delivery of supplies under this contract.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 6.28:

Delivery of fuel elements and enriched uranium ordered from an American company was in fact delayed in 1977, partly as the result of a change having to be made to some of the original order and partly because the American supplier has been having administrative difficulties. The Commission's departments have taken the necessary steps to safeguard the Community's interest and had achieved complete success by April 1978 when action taken previously resulted in the delivery in full of supplies which had been pending. There has therefore been no financial loss to the Community.

6.29 Ispra appears also to be holding excessive stocks of fuel elements and enriched uranium for the ESSOR reactor. As at April 1978 there were 92 new fuel elements in stock with a further 29 still due under the contract mentioned above. In addition 30 751 kg of enriched uranium, sufficient to produce another 50 fuel elements, is held on behalf of Ispra by third parties. In view of the reactor's present consumption of fuel elements, these amounts are excessive and steps should be taken to rationalize stocks of fuel elements and enriched uranium.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 6.29.

As concerns the policy on stocks of fuel elements, a general comment is called for. The procurement of the fuel elements (approximately 100) and the related expenditure were decided in 1973 to permit completion of the radiation work provided for in the outline programme of the ESSOR contract; the difficulties encountered subsequently in implementing the programme explain why it has not yet been possible to use all the fuel elements.

Comment of the Court of Auditors

In view of the uncertainties concerning the future of the ESSOR programme described in

preceding paragraphs and having regard to the fact that the procurement decisions were taken as long ago as 1973, the Court is of the opinion that the Commission should undertake a realistic assessment of the reactor's future requirements of fuel elements.

Karlsruhe

6.30 The Court's audit of the 1977 accounts of the establishment at Karlsruhe gives rise to the following observations concerning the financial management of the investment programme to improve physical protection at the centre, which was undertaken at the behest of the German authorities and of the International Atomic Energy Agency. This expenditure relates mainly to the construction of a security control centre and a fence, the layout of the grounds and the purchase of detection and alarm systems.

6.31 No coherent plan was prepared, however, when the work began in the autumn of 1976. The planning of the physical protection measures was also hindered by the unwillingness of the German authorities to accept a comprehensive programme in advance. They were only prepared to assess the adequacy of the work as it progressed and imposed on the institute a series of progressively more severe security measures.

6.32 The lack of a specific budget also hindered comprehensive preplanning. In the appropriations allocated to the institute for infrastructural work in the 1977 financial year, the Commission originally earmarked the sum of 480 000 u.a. as commitment appropriations for the security measures at Karlsruhe. In order to satisfy the security requirements of the German authorities it was necessary in 1977 to enter into commitments amounting to 1 118 067 u.a. This total was made up of 34 600 u.a. carried forward from 1976, 480 000 u.a. allocated in the 1977 budget and 603 467 u.a. which was originally intended for the purchase of scientific equipment and for research contracts.

6.33 So as to obtain reasonable prices and to reduce administrative delays, the institute had, at the outset of the work, proposed to the Joint Research Centre Advisory Committee on Procurements and Contracts (CCAM-CCR) that work in certain non-specialized areas be entrusted to the same firms as had been commissioned by the German research

centre which was carrying out similar work on a scale ten times as great. The Advisory Committee did not, however, deliver an opinion.

6.34 Again the Advisory Committee's position was ambiguous on the question of installing an alarm system. In view of the fact that the operation of these installations needs to be secret, the Advisory Committee made it known to the institute that the various purchases should be examined case by case and that the use of private treaty contracts should not be excluded in certain circumstances. As a result the institute no longer submitted various orders to the Advisory Committee even though the point at which it ought to have been consulted was passed on many occasions. It is clear that in those circumstances it may not have been possible to issue the call for tenders and, consequently maintain an effective check on prices in a satisfactory way — the more so because in the case of many important supplementary orders the institute was forced, for technical reasons, to go back to the firms who had been awarded the initial contracts and thus had to accept their prices.

6.35 Because of the uncertainties regarding financing — the definitive appropriations for the 1977 financial year were only voted in November 1977 — and faced with the additional requirements of the German authorities, the institute was not in a position to avoid either supplementary orders or important divergences as between its orders and those placed by the German centre. The result was additional expenditure, for example during the construction of roads, paths and parking facilities.

6.36 Given the problems which arose during the implementation of the security measures, the Court of Auditors considers that immediate and wide-ranging consultation between the Commission and the German authorities and better preparatory work for the project by the departments concerned would certainly have reduced the costs incurred in this area.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 6.30 to 6.36.

Karlsruhe

The Court of Auditors has raised the difficulties encountered by the JRC administration because the directors were unable to fix a clear plan in advance. This situation was the result of the attitude of the German authorities (who, as mentioned in the Audit Board's Report, did not

wish to fix such a programme in advance), and the fact that the requisite funds were not immediately available.

Another factor which affected management should also be stressed: given the preoccupation of the Federal Republic of Germany with the security of nuclear installations at the time, it was essential to begin the protection work as early as possible.

The Court has itself mentioned the efforts made by the management to obtain the favourable prices enjoyed by the German research centre. Where private contracts were awarded, this was always done for such cases and within such limits as are permitted by the Financial Regulation. The Commission stresses that the CCAM-CCR (Joint Research Centre Advisory Committee on Procurements and Contracts) was informed whenever the intervention threshold had been reached.

In addition and in spite of the spread of various further orders, the Research Centre's departments rigorously controlled prices by comparing the original offers with the market price. All possible precautions were taken at management level in spite of the severe constraints arising out of the urgent representations of the German authorities.

As for the 'wide-ranging consultation between the Commission and the German authorities', it would seem relevant to draw the attention of the Court of Auditors to the fact that the authorities of the Land of Baden-Württemberg are competent to deal with all problems relating to the physical security of the Karlsruhe installations. The Commission does not have authority to negotiate directly with the Land authorities. In the meantime an official request on this point has been addressed to the Permanent Representative of the Federal Republic of Germany in Brussels. Although this is not strictly speaking consultation at political level, the relevant departments of the Karlsruhe establishment have nevertheless maintained constant contact with the local authorities.

With regard to preparing the orders covered by the investments, the services concerned might have been able to achieve a few savings by means of a longer and more thorough market investigation, but this would have delayed the physical protection work on a Commission installation which was a potentially important objective for trouble-makers.

ENERGY

Introduction

6.37 Since 1973 the common energy policy, which was previously the exclusive responsibility of the ECSC and EURATOM, has gradually extended to other sectors of activity.

Below are 3 examples from the energy sector, some of which illustrate difficulties encountered in initiating and concluding projects.

Community technological development projects in the hydrocarbons sector (Item 3200 of the budget)

6.38 Council Regulation 3056/73 of 9. 11. 1973 authorized the Communities to extend financial support towards guaranteeing the continued supply of hydrocarbons, under the headings exploitation, storage and transport. As the programme was of a long-term nature, it was divided into three stages:

- 1974-76: 17 projects involving aid of 38.9 million u.a.
- 1975-77: 34 projects involving aid of 38.4 million u.a.
- 1977-79: 40 projects involving aid of 53.4 million u.a.

Joint projects in prospecting for hydrocarbons (Item 3201 of the budget)

6.39 At the end of October 1977 the Commission submitted to the Council a proposal for a programme for the promotion of prospecting for hydrocarbons. At the time of drafting this report the Council has not yet given an opinion. The Commission estimates the cost of the prospecting programme at 48.7 million u.a. of which the contribution made by the European Communities would amount to 24.8 million u.a. The proposal involves geophysical exploration (aid of 11.5 million u.a., i.e. 75 % of the total cost) and drilling (aid of 13.4 million u.a., i.e. 40 %).

Prospecting for uranium (Article 321)

6.40 Council Regulation 2014/76 laid down the procedure for granting Community aid towards uranium prospecting. The payment appropriations allocated for this purpose in 1977 amounted to 2 million u.a. (compared with 1 million u.a. in 1976) whilst commitment appropriations totalled 5 million u.a.

Observations concerning Community technological projects in the hydrocarbons sector

6.41 A model contract for these projects was not drawn up until May 1975; so that the Commission could not conclude individual contracts with the various companies until the fourth quarter of 1975 for the first series of projects (1974-76) and until the end of 1976 for the second series (1975-77). To date, 35 out of the 40 contracts intended for the third series (1977-79) have been signed; the remaining 5 projects have been abandoned since they were no longer considered viable by the contracting companies.

6.42 It was noted that the substantial budget appropriations of recent years did not result in the intended range or level of activity. In fact only a small part of the appropriations for the years 1974-77 was spent as originally intended during the financial year in which the appropriations had been granted. The greater proportion of the unused appropriations was carried over to the following financial year, while about 27 % of the total was written off (see Table 21). In 1977, for example, almost all of the 28 million u.a. initially intended for 1976 were carried over. 18.9 million u.a. of these was written off in 1977 and out of the 23 million u.a. re-entered in 1977 only 2.7 million u.a. was actually spent, so that more

than 20 million u.a. was carried forward to 1978. This situation highlights the difficulties encountered in the implementation of projects. The Court has been unable to establish whether this is the outcome of lengthy procedures or overestimation of requirements.

6.43 Community support is granted in the form of loans, guarantees or, under specific conditions, in the form of subsidies (capital and interest) repayable in the event of commercial exploitation. Certain difficulties have been encountered in applying the latter formula. With regard to research projects already concluded, the Court thinks that the Commission should devote greater attention to the following points:

- Final settlement of accounts, when the aid is determined in detail by reference to the technical elements;
- Auditing of the technical reports, where commercially exploitable results are established;
- Fixing of the repayment procedure, including the schedule of due dates, the submission of revenue orders and the releasing of the contractors from their obligations.

Table 21 — Implementation of appropriations approved in the budget for 1974-1977

(in u.a.)

	Appropriations for the financial year	Appropriations carried over from the previous financial year	Total amount of appropriations available	Payments from the appropriations of the financial year	Payments from appropriations carried over	Total payments	Written off
1974	25 000 000	—	25 000 000	—	—	—	—
1975	25 000 000	25 000 000	50 000 000	466 715	25 000 000	25 466 715	—
1976	28 000 000	24 533 285	52 533 285	1 739	15 697 851	15 699 590	8 835 434
1977	23 000 000	27 998 261	50 998 261	2 743 108	9 121 128	11 864 236	18 877 132
1978	—	20 256 892	20 256 892	—	—	—	—
	101 000 000	97 788 438	198 788 438	3 211 562	49 818 979	53 030 541	27 712 566

The total sum of appropriations for the years 1974-1977 amounted to 101 000 000 u.a.:

of which 53 030 541 u.a. was paid out,

of which 27 712 566 u.a. was written off,

and 20 256 892 u.a. was carried over to 1978.

Reply of the Commission

The Commission has made the following reply to the comments made by the Court in paragraphs 6.37 to 6.43:

Expenditure under the energy policy

With regard to the appropriations under Chapter 32 of the budget, the Commission would draw attention to its constant efforts to carry out the action programmes under the energy policy.

Generally speaking, implementation of these action programmes has been affected by delays arising from the procedure for approving programme proposals and from the circumstances surrounding their implementation.

The Commission began by proposing an initial set of actions in the hydrocarbons sector in support of Community technological development projects directly linked with hydrocarbons exploration, exploitation, storage or transport activities which are likely to improve the security of the Community's hydrocarbon supplies. These measures take the form of financial support to the manufacturing undertakings, i.e. the granting of loans, the underwriting of loans or subsidies repayable in certain conditions. Community participation in approved projects is limited, however, to a maximum of 49.9 %: the implementation of this first set of projects began in 1975.

Still in the hydrocarbons sector, a second set of measures was the subject of a proposal (sent to the Council in November 1974) in support of joint prospecting projects, particularly in the preliminary stratigraphic investigation of deep-sea sedimentary basins.

Appropriations were allocated to these projects in 1977 but they could not be committed for want of a Council decision during the 1977 financial year.

With regard to uranium, the Commission is continuing to implement a programme designed to encourage the prospecting for uranium resources on Community territory; its participation takes the form of non-repayable subsidies for uranium prospecting programmes.

The Court of Auditors has compared the payments made between 1974 and 1977 with the appropriations entered in the budget and

speculates about the reasons for the delays occurring in payments, i.e. procedural delay or an overestimate of requirements?

During the initial stages of this new action (approved by the Council in 1973), delays of this kind were inevitable and must be attributed exclusively to the budgetary procedures operating at this time. Indeed, the support contracts concluded in pursuance of Council Regulation No 3056/73 included the implementation of multiannual programmes (generally for three years) whereas until 1976 the budget merely provided for annual appropriations which could only be carried over once to the following financial year.

Furthermore, the Council was well aware of this since it re-entered in the 1977 budget 8 million u.a. of the 8 335 434 u.a. which had been cancelled at the end of 1976 and, in the 1978 budget, it re-entered 15 million u.a. of the 18 877 132 u.a. cancelled at the end of 1977. The difference is justified by the cancellation or partial implementation of a number of contracts which were already anticipated when these decisions were taken.

Table 22 ⁽¹⁾ shows that the time taken in negotiating contracts with firms did not exceed six months apart from the first year where an additional period of five months was needed to finalize the standard contract.

Table 23 shows that virtually all the sums entered in the budget in respect of each series of projects were committed within the appointed time-limits.

The apparent anomaly discovered by the Court of Auditors will disappear with the third series of projects which has been financed from differentiated appropriations. Nevertheless, there are still likely to be repercussions on payments in 1978 and 1979, particularly for the first two series of projects (Table 24).

The Court of Auditors expresses concern that the system of aid (loans repayable if the project proves a commercial success) will encounter practical difficulties of implementation.

It must be remembered that no repayment can arise before 1978 since the first contract was signed in 1975 and the first results cannot be

⁽¹⁾ The three tables provided by the Commission have been renumbered on incorporation into this Report.

expected before June 1978. At the present time (September 1978), the accounts have been closed and approved by the Commission in respect of 11 contracts and the first repayments have been made in respect of seven contracts.

After a trial period, the Commission set up an administrative structure to manage the contracts. After payment of a lump sum when the contracts are signed, subsequent payments are made against evidence of expenditure actually incurred (coupled, if necessary, with an

on-the-spot check to verify proper implementation of the work). The balance — never less than 20 % of the contract amount — is not paid until after the accounts have been closed and the results checked.

In the last quarter of 1978, the Commission will send to the Council and to Parliament a second report on the implementation of Council Regulation No 3056/73 which will outline the progress of each project and analyse the early results in the development of technological projects receiving Community support.

Table 22 — Timetable for the implementation of Regulation No 3065/73

Financing periods	Expiry date of invitation to tender	Commission Proposal	Council Decision	Negotiation and conclusion of contracts
1974-1976	31 March 1974	26 July 1974	19 December 1974	June to December 1975 ⁽¹⁾
1975-1977	28 February 1975	25 July 1975	4 May 1976	June to December 1976
1977-1979	28 February 1977	27 July 1977	25 October 1977	From November 1977 onwards

⁽¹⁾ The first six months of 1975 were taken up with drafting the standard contract.

Table 23 — Commitments

(in u.a.)

Financial year	Appropriations entered in the budget	Support granted by the Council	Appropriations actually committed by the Commission	Destination of the appropriations committed
	<i>Non-differentiated appropriations</i>			
1974	25 000 000	42 503 159 ⁽¹⁾	—	
1975	25 000 000	—	38 914 816	First set of projects (1974-1976)
1976	28 000 000	38 448 635 ⁽²⁾	35 116 265	Second set of projects (1975-1977)
	<i>Differentiated appropriations</i>			
1977	50 000 000	53 408 611 ⁽³⁾	22 474 161 ⁽⁴⁾	Third set of projects (1977-1979)

⁽¹⁾ Council Decision of 19 December 1974 on the grant of support for 21 technological development projects in the hydrocarbons sector.

⁽²⁾ Council Decision of 4 May 1976 on the grant of support for 34 technological development projects in the hydrocarbons sector.

⁽³⁾ Council Decision of 25 October 1977 on the grant of support for the implementation of 40 technological development projects in the hydrocarbons sector.

⁽⁴⁾ In respect of 14 contracts signed up to 31 December 1977.

Table 24 — Payments

(in u.a.)

Set of projects	Appropriations committed	1975	1976	1977	Total payments	Payments still to be made
First (1974-1976)	32 914 816	25 466 715	5 156 310	477 847 ⁽¹⁾	31 100 872	7 522 153 ⁽¹⁾
Second (1975-1977)	35 116 265	—	10 543 280	5 695 853	16 239 133	18 877 132 ⁽²⁾
Third (1977-1979)	22 474 161	—	—	5 690 536	5 690 536	16 783 625
Total payments		25 466 715	15 699 590	11 864 236	53 030 541	

⁽¹⁾ The 8 million u.a. from the 1975 appropriations re-entered in 1977 pursuant to a Council Decision have been used for 1977 payments and will be used in 1978 to pay the 20 % balance of the subsidy, as provided for in the support contract.

⁽²⁾ Under a Council Decision, 15 million u.a. of this amount has been re-entered in the 1978 budget. The Commission is to request the re-entry of the balance in a subsequent financial year.

Chapter 7 — Cooperation with developing countries and non-member States

7.1 The Community's cooperation and development policy has many aspects and concerns a number of headings in Title 9 of the Community budget.

7.2 In 1977 payments under this Title amounted to 215 929 888 u.a. This figure can be subdivided as follows:

	u.a.
— Food aid	187 459 024
— Cooperation with non-associated countries	7 931 526
— Specific cooperation projects	9 415 578
— Financial and technical cooperation with non-associated developing countries	11 123 760

7.3 In addition to Title 9, however, assistance is given to countries in these categories under headings which are examined elsewhere in this report. These are:

— The European Development Funds. These 'extra-budgetary' operations involved payments in 1977 of 197 645 683 u.a. This expenditure is broken down and examined in the EDF report.

— Export refunds on food aid charged to the EAGGF Guarantee Section (Title 6 of the budget). These amounted to 205 836 636 u.a.

— Advances agreed by Member States for the execution of food aid programmes and charged as 'extra-budgetary' sums (32 713 335 u.a.) at the close of the year.

FOOD AID

7.4 Community food aid comprises three main commodities:

(i) *Cereals*. Each year the Council adopts a programme of aid for cereals in the form of national and Community projects, the latter tending to increase regularly. This aid, which originated from a convention attached to the Agreement on trade in wheat concluded in 1967, was regularly extended and since enlargement of the Community the amount of cereals supplied has risen to 1 287 000 tonnes/years. In general the Community ensures the financing of deliveries f.o.b. in the form of grants.

(ii) *Milk products*. This form of aid, made available for the first time in 1969, was conceived as an autonomous aid by the Community in order to reabsorb certain surpluses, which means that it is executed solely by the Community and in a

rather intermittent manner. Each year the Council decides upon the delivery programmes for skimmed-milk powder and butteroil.

- (iii) *Other products.* Simultaneously with these autonomous programmes, the Community has concluded a three-year agreement with UNRWA (United Nations Relief and Works Agency) which provides, *inter alia*, for the supply of 6 000 tonnes of sugar per annum. This agreement expired on 31 December 1976 and has not been renewed since this date.

FINANCIAL CONDITIONS

7.5 Export refunds are charged to the EAGGF Guarantee Section whereas all other expenditure, of the Community, including the price of the goods and removal, transport, insurance and processing costs, etc., is charged to Title 9 of the budget.

In drawing up Community programmes, the assessment of the need of a country for Community food aid is made by reference to three main criteria: the existence of a food deficit, an average annual *per capita* income of less than USD 300 and a balance of payments deficit.

7.6 The agreements concluded with the recipient countries determine the conditions under which the goods are delivered and they provide for either the free distribution of aid, or the marketing of products on local markets by the national authorities and the allocation of the sale proceeds, by way of special accounts to finance development projects. These projects comply with a certain number of pre-established criteria and the Community is regularly informed of their progress.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.1 to 7.6 as follows:

The replies to the comments concerning food aid are based on the principles governing the management of aids. The Community's food aid is based on the obligations arising from the International Food Aid Convention as regards cereals and unilateral donations of products other than cereals (in particular milk products and, to a lesser extent, sugar) decided upon by the Council every year when the Community budget is drawn up.

The Council decides how the products are to be divided up between the recipient countries and organizations on the basis of target programmes submitted by the Commission.

The budget appropriations for food aid — which amounted to 178 400 000 u.a. in 1977 — are entered in Chapter 92 of the budget. In addition, appropriations to cover export refunds are entered in Title 6 of the budget.

The granting and delivery of aid to the recipient countries and organizations are discussed in an ad hoc exchange of letters to which are attached the conditions of supply and utilization which the recipients undertake to observe.

The assembling and procurement of these products are laid down in the provisions of the Community regulations establishing a common organization of the market in each of the sectors of the products concerned. The aid is financed under the Community arrangements for financing expenditure resulting from the supply of agricultural products as part of food aid.

The granting and delivery of aid thus meet the specific criteria of Community development aid policy, and the assembling and procurement of the products have to meet the requirements of the common agricultural policy and the management thereof.

The inevitable dualism which results in respect of the management of the aids is at the root of the various technical problems; various Commission departments and the national intervention agencies of the Member States are involved in these operations.

The Commission makes every effort to cope with the difficulties with the means at its disposal, in particular by improving the procedures for supplying aid by drawing up appropriate outline regulations concerning the assembling of the products required and making strict checks on the conditions of delivery and use for these aids.

Recently, the Commission sent the Council a proposal concerning the adoption of new procedures for the distribution of aid in order to speed up the execution of these activities. The Commission's efforts have already improved the situation as compared with the management of previous years. However, it should be noted that these improvements depend on the means — procedural and material — put at its disposal.

7.7 The audits carried out on a limited number of operations have revealed a certain number of anomalies in the management of food aid programmes. They have led the Court of Auditors to renew certain observations and criticisms previously made by the Audit Board.

Nevertheless, the efforts undertaken by the Commission's departments to pay closer attention to the way in which agreements are carried out, should be stressed. Various surveys have been carried out or are in progress in connection with possible misappropriations of goods, poor quality, deterioration in products or cases of improper utilization of aids. In 1978, moreover, the Commission proposed new procedures for the management of food aid programmes.

7.8 The Court's comments concerning food aid are made under the following headings:

(a) Execution of budget appropriations,

- (b) Delays in closing accounts for aid programmes,
- (c) Reimbursement of additional expenditure,
- (d) Delays in deciding upon and executing aid programmes,
- (e) Deficiencies in mobilizing and transporting aid,
- (f) Checks on the utilization of aid.

(a) *The management of budget appropriations*

7.9 In 1977 the appropriations shown under Titles 6 and 9 of the budget to finance Community food aid programmes amounted to 589 543 726 u.a.

7.10 The utilization of these appropriations, in commitments and payments, is shown in the Table below and calls for certain comments.

Table 25

(in u.a.)

Payments	Appropriations	Commitments	Payments
Title 6 — Financial year 1977	125 700 000	118 756 067	112 778 166
Carried over from 1976	96 140 815	96 140 815	93 058 470
Total	221 840 815	214 896 882	205 836 636
Title 9 — Financial year 1977	178 400 000	176 462 816	52 644 604
Carried over from 1976	189 302 911	189 302 911	134 814 420
Total	367 702 911	365 765 727	187 459 024
Overall total	589 543 726	580 662 609	393 295 660

7.11 Contrary to previous years, the 'food aid' appropriations no longer gave rise to illegal compensatory movements between Titles 6 and 9 of the budget.

7.12 The appropriations relating to export refunds on food aids decreased from 201 500 000 u.a. to 125 700 000 u.a., by transfer within Title 6, while the sums committed and the payments made exceeded 90 % of the committed appropriations. Although the commitments charged to Title 9 involved almost all of the budget appropriations the payments made hardly amounted to 30 % of the commitment appropriations. This under-utilization can be

explained by the Council's late decision in adopting the 1977 programmes. Moreover, since certain agreements concluded during the preceding years have not been carried out in the desired time, only about 71 % of the appropriations brought forward were used.

(b) *Delays in closing accounts for aid programmes*

7.13 There have been serious delays in the financial closure of food aid programmes. The Commission did not finally adopt the accounts submitted by the Member States for the expenditure on food aid in the financial year 1974 until

22 November 1977. Under these circumstances it is not certain that the accounts relating to aid for cereals and milk products carried out in 1975 will be closed in 1978.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 7.13, as follows:

The closing of the accounts for the aid years raises considerable administrative problems for the Commission. The work preparatory to closing the books for the financial year 1975 will probably be completed in the first quarter of 1979, so that final clearance could be decided during the first six months of that year. The delay is thus around two-and-a-half years; this is mainly due to the considerable increase in the number of aid activities and the inclusion from 1 January 1975 of the expenditure on food aid in the form of milk products.

As the staff allocated to the financing of food aid expenditure has not increased at the same rate, priority has had to be given to day-to-day management, including the inspection of expenditure at the monthly payment stage, a procedure which enables the solution of some special problems to be anticipated, thus facilitating work involved in the final clearance.

(c) Reimbursement of additional expenditure

7.14 To the extent that such expenses are to be borne by the countries or organizations receiving aid, excess port charges and the costs of delays in shipping have to be reimbursed to the Commission.

7.15 Contrary to the provisions of the Financial Regulation and in spite of repeated criticisms made by the Audit Board, the relevant claims, which at the close of 1977 amounted to some 913 000 u.a. were only partially recorded in the accounts of the institution. This practice has meant that the Commission has not had to supply evidence for waiving claims totalling 333 582 u.a., i.e. 110 351 u.a. during 1976 and 223 231 u.a. in 1977.

7.16 On 19 October 1977 the Commission decided:

- that it would be advisable to waive automatically all claims for sums less than 1 000 u.a. and all those relating to the 1970/71 and 1971/72 programmes. The total claims thus waived by the institutions amounted to 223 231 u.a.;
- to appoint an authorizing officer responsible for recovering or waiving claims arising from food aid operations.

7.17 At the close the financial year revenue orders issued in respect of aid operations in 17 countries amounted to 378 529 u.a.

The Commission has only recovered a total of 50 873 u.a., i.e. 33 115 u.a. in 1976 and 17 758 u.a. in 1977.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.14 to 7.17, as follows:

As regards the reimbursement of additional expenditure occasioned by factors such as demurrage charges and the costs of delays in shipping, the Commission stresses that its departments have not recorded the claims in those cases where it was difficult to specify the agency responsible for the additional expenditure. However, the Commission has taken measures to recover these sums on the basis of Article 35 of the Financial Regulation (Article 29, new version); the Commission is aware of the possible difficulties of recovering these sums but it has not abandoned its claims.

7.18 The Court of Auditors recommends that in accordance with the Financial Regulation recovery orders should be issued for all claims for reimbursement of additional expenditure and that all such recovery orders should be recorded in the accounts.

As far as collection of these debts is concerned, the Court recognizes the problems faced by the institution. By definition, the debtors are countries in poor economic circumstances (or they would not have received aid), and although the debts are properly established under the relevant agreements too rigid a pursuit by the Commission could be

represented as an unpopular proceeding. Nevertheless, it is unsatisfactory to carry debts running at such figures in the books when only a small proportion is recoverable and a solution to the problem must be found soon. The Court welcomes the action of the Commission taken in October last and is content that the new system should have an opportunity of proving itself. Part of the problem could be the procedure adopted under which the debts to the port authorities and others are first met by the Commission and subsequently recovered from the recipient country. There is no sanction for the latter to make prompt payment because aid has already been given. The Court feels that, although alternative solutions might lead to difficulties, they should nevertheless be examined. If recoveries prove to be no higher than in 1977, the employment of staff on recovery work in this field is clearly uneconomic.

(d) *Delays in deciding upon and executing aid programmes*

7.19 There have been considerable delays in drawing up the annual programmes, in concluding agreements and in the mobilization and transportation of food aid.

The cereals programme for the year from 1 July 1976 30 June 1977 was adopted on 8 February 1977. The skimmed-milk powder and butteroil programmes for 1977 were not decided upon until 25 July 1977.

7.20 These delays are reflected in the utilization of appropriations and also in the execution of Community aids. At the close of 1977 the programmes still to be carried out from 1977 and previous years amounted to:

- 324 649 tonnes of cereals (as opposed to 562 880 tonnes at the close of 1976);
- 141 726 tonnes of skimmed-milk powder (as opposed to 135 437 tonnes at the close of 1976);
- 47 476 tonnes of butteroil (as opposed to 44 785 tonnes at the close of 1976).

7.21 There are certain errors in the assessment of the needs of the recipient countries. Although on several occasions certain regions in Niger complained about the quality of European sorghum, the Community still continued to supply Niger with considerable quantities of this product. In the same country the deficit in milk products seems to have been greatly overestimated. That is why, in September 1977, the authorities in Niger asked for a

reduction in the skimmed-milk powder aid granted in the 1976 programme from 3 200 to 1 500 tonnes. An on-the-spot inquiry assessed the country's real annual requirement at 500 tonnes.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 7.21, as follows:

Another problem arises in assessing the requirements of the recipient countries. The final decision regarding the choice of products is taken by the authorities of these countries and not the departments of the Commission. When supplying sorghum to Niger, for instance, the departments of the Commission ascertained that the national authorities had chosen this variety in full knowledge of its characteristics. The country's imported milk powder requirements were considerable when the aid was approved, and still are so. This is a problem of distribution and not of absorption capacity.

7.22 In at least one case delays in the determination of the annual programme and in the conclusion and implementation of the agreement called into question the validity of Community aid.

7.23 The Council did not adopt the cereals aid programme for 1 July 1975/30 June 1976 until 25 March 1976 and decided upon a Community aid of 175 000 tonnes of common wheat for India. Shortly after the conclusion of the October 1976 agreement the Commission's departments suspended the procedure for mobilization of the goods. Meanwhile, it had been officially reported that considerable reserves of cereals existed in India following two successive good harvests, that storage space was inadequate and that it was even possible to export domestic wheat.

7.24 After consulting with the Council, the Commission nevertheless mobilized the aid and the wheat was delivered to the ports of shipment between May and October 1977.

This decision disregards two essential conditions underlying Community decisions on aid:

1. the existence of a real *food deficit*. In fact, before all the goods reached their destination, the Indian

- authorities informed the Commission of the satisfactory food supply situation existing in their country and of their decision to grant large quantities of home-grown wheat to Vietnam, Afghanistan and Sri Lanka and even to return wheat to the USSR which had been borrowed during the year 1973/74;
2. the *prohibition of exports*, even non-commercial, of cereals received through aid or produced locally during the six months following the last delivery of aid.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.23 and 7.24, as follows:

As regards the supply of cereals to India, the Commission decided to supply wheat after exhaustive discussions with the Indian authorities on the spot, with the Member States and with the Council; it thus knew for a fact that the situation had improved since the Council's original decision. The reason it sent the supplies was that the Community could not renege on its commitment once the Indian authorities had repeated their request for the wheat.

(c) Deficiencies in mobilizing and transporting aid

7.25 In general the mobilization of aid is carried out by the tendering procedure at a flat-rate global price precluding any assessment of the components of the invitation to tender. Since 1975 the shipping costs of single deliveries of cereals to the port of arrival have been stated separately in the tenders. This breakdown, however, is still insufficient.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 7.25, as follows:

The various aids are normally procured by means of tender. Although the absence of any cost analysis may sometimes raise problems, the Commission is of the opinion that the most important task is to accept the most favourable offer irrespective of its breakdown.

7.26 On several occasions the transport of aid has met with serious difficulties.

In June 1977 the Community concluded an agreement with the Comoros providing for the delivery of 2 140 tonnes of milled rice.

The loading of the rice was completed on 20 October 1977 and the boat was due to arrive at the Comorian ports in the third week in November.

But on 16 March 1978, after an eventful voyage, the ship sank in the Indian Ocean, without it being possible to ascertain if the Community aid was still on board at the time. On 29 March 1978, i.e. more than five months after the boat had left port at Imperia, the Italian agency finally informed the Commission of the failure of the operation. In view of the acute shortage of food in the country the Commission instructed the tenderer to replace the lost cargo. The 2 140 tonnes of rice sent in replacement did not reach their destination until 16 June 1978. Enquiries are currently being carried out by the Commission to ascertain the full facts concerning the supply of this aid and to ascertain whether any legal action should be taken in this matter.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 7.26, as follows:

As for the general aid delivery problem, the Commission's departments are looking into ways of ensuring that consignments are actually delivered in good time. In fact, the Commission is currently preparing a framework regulation on the procurement of cereals intended for use as food aid.

Comment of the Court of Auditors

The conditions for shipment of aid in the invitation to tender merely state the goods should reach their destination 'as soon as possible'. Under recent mobilization regulations, contractors must inform the intervention agencies of the anticipated dates of arrival of the products at their destination, as well as of any incident which may have occurred during transportation. As an expression of the contractor's obligations this formula nevertheless appears to be inadequate.

7.27 The transport of aid from the ports of shipment to their destination also met with serious complications on account of the inadequacy of the means of transport and sometimes because of errors on the part of the tenderers or the local departments. This applied particularly in the case of the emergency aid (2 000 tonnes of durum wheat) to be supplied to the Republic of Chad. An audit report shows that 5 months after the boat had been unloaded only 480 tonnes were distributed while the remaining 1 520 tonnes had been stored at different stages of the voyage. Since Community aid was not delivered at its destination in the desired time, aid had to be supplied from other sources.

7.28 On several occasions the *quality of the products* was questioned by the recipient countries.

In 1976 the Community granted Niger 3 750 tonnes of husked rice considered unfit for human consumption by the authorities there. This accusation was justified by the samples taken by the Commission. In order to be used the product had to be processed and the manufacturing expenses (68 620 u.a.) were covered by the Commission.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.26 and 7.28, as follows:

When procuring aid products, the Commission is not protected against every eventuality, as is shown by the case mentioned by the Court of Auditors relating to the consignment of milled rice for the Comoros. The consignment of husked rice for Niger has meanwhile become the subject of a dispute between the Italian intervention agency, the tenderer and the Commission, and is currently before the Milan Court.

7.29 The Upper Volta Government complained of the poor quality of the 827 tonnes of milled rice and the 1 000 tonnes of wheat which, prior to export, had been judged as satisfactory by an official Belgian organization and by a firm of experts.

(f) Checks on the utilization of aid

7.30 Under the terms of the agreements the recipients of Community aid should regularly inform

the Commission of the distribution conditions for aid and the marketing of products, the utilization of the proceeds of sale and the execution of development projects.

Information obtained on this subject is still of a fragmentary nature.

7.31 With regard to the non-associated countries, the Commission is totally dependent on the authorities of these countries for information concerning aid schemes. The scant information contained in the management files shows that in a certain number of cases, the utilization of Community aid does not comply with the provisions of the agreements. Although the Community granted 13 food aid programmes to Peru, the Peruvian authorities have only declared the credits accruing to four of these projects. Furthermore, no information was sent on the actual implementation of the intended development of projects.

In the same country, 3 000 tonnes of cereals delivered during 1970-71 were destroyed by fire at a warehouse. The Commission's departments have received no information on the outcome of this disaster.

7.32 According to a communication from the embassy of a Member State in Bolivia the proceeds from the sale of 986 tonnes of flour granted by the Community financed the fitting-out of a military hospital.

7.33 Agreements concluded with India stipulate that the proceeds of sale are assessed at a flat rate and charged to the central government's budget. Despite this simple condition the Indian authorities did not announce the results of the marketing of aids granted in 1973/74 and 1974/75 or the use made of these appropriations until 1976. The information sent, however, was only in summary form and did not permit the Community share in the financing of these development programmes to be identified.

7.34 In the countries linked with the Community by the Lomé Convention, Commission delegates may to a certain extent be able to inform the Commission's departments of the implementation of the aid programmes.

Thus the information supplied by the authorities in Niger differs from that forwarded by the delegate.

- Nevertheless, these two communications reveal that the official organization responsible for the marketing of the aids only credited the special bank account provided for this purpose with a small percentage of the proceeds of the sale.

7.35 In the Upper Volta, proceeds were used to cover the cost of running a regional development organization and the examination and preparation of dossiers on the construction of new administrative buildings. This financing does not entirely comply with the intention of assisting with development projects.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.27, 7.29 and 7.31 to 7.35, as follows:

With reference to the consignments of durum wheat for Chad and of milled rice for Upper Volta and the use of Community aid in accordance with various agreements, particularly in Peru, Bolivia, India, Niger and Upper Volta, the Commission's departments are engaged in a detailed study of these operations, particularly the use of counterpart funds by the beneficiary countries to identify and remedy existing deficiencies like those mentioned in the Court of Auditors' Report.

FINANCIAL AID

7.36 Financial aid is given for a variety of purposes, which include emergency help and financial assistance to international bodies, financial assistance for specific projects and investments, a subsidy to balance the budget and interest subsidies on loans.

The appropriations entered under these budget headings for 1977 amounted to 104 575 506 u.a. while only 28 470 864 u.a. (i.e. 27.23 %) was made in payments.

All the agreements lay down the procedure for justifying and auditing these financial aids. Their effectiveness is difficult to audit in view of their diversity and the geographical spread of the projects.

DISASTER AID

7.37 In 1977 the Commission gave direct aid to the Republic of Cape Verde which suffered a severe drought (1 500 000 u.a.). In addition it granted emergency aid by the intermediary of international organizations to flood victims in Romania (100 000 u.a.) and cyclone victims in India (100 000 u.a.).

AGREEMENT WITH UNRWA

7.38 Appropriations amounting to 3 291 000 u.a. were granted for the purpose of meeting expenditure incurred by the United Nations in connection with Palestinian refugees. No part of this sum has been committed and it is understood that the Community contributions for 1975 and 1976 have not been fully spent. The 1977 appropriation has been carried over to 1978 and it is understood that it will not all be used.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 7.38, as follows:

Contributions to the United Nations Relief and Works Agency for Palestinian Refugees in the Middle East (UNRWA)

The Community contribution for 1977 amounted to 13.7 million u.a., consisting of 10.4 million u.a. in kind and 3.291 million u.a. in cash, of which about 25 % is intended to cover costs of transport and distribution of basic rations to the refugees and the remaining 75 % or so to finance the supplementary food programme for the more needy sections of the population. The cash payments (which are usually made half yearly) are renegotiated each year with UNRWA on a provisional basis and are subject to the Council's approval. In some years, the contribution has not fully covered expenditure, whereas in 1974/75 and 1975/76 on the other hand the contribution exceeded actual requirements.

UNRWA notified the Commission as soon as it was sure that the Community contributions would greatly exceed its expenditure (the main reasons for this were the drop in commodity prices and a cutback in programmes following the civil war in Lebanon). At no time did UNRWA try to conceal the position, nor did it

try to use Community contributions for other programmes. The Commission informed UNRWA that the matter would have to be brought to the attention of the Council in due course and that meanwhile steps would have to be taken to ensure that this did not happen again in 1977. As a result the Commission made no payment for the 1977 financial year.

PROMOTION OF TRADE RELATIONS

7.39 For 1977 the budgetary appropriations for the promotion of trade relations between the Community and the non-associated developing countries was 5 000 000 u.a. At the close of the financial year commitments entered into the accounts amounted to 4 603 934 u.a. They involved the trade missions of these countries in Europe, participation in trade fairs and exhibitions, the organization of seminars, the recruitment of experts, publishing costs, etc. A major proportion of the appropriations was not committed until the end of the financial year, only 1 814 301 u.a. being paid out in 1977, i.e. 36 % of the annual appropriations.

FINANCIAL AND TECHNICAL COOPERATION WITH NON-ASSOCIATED DEVELOPING COUNTRIES

7.40 Because of the uncertainty of the legal basis of this operation, the Commission did not commit all the appropriations charged in 1976 to this budget heading until the very end of the year. The commitments made in 1976 amounted to 20 million u.a. involving 8 projects.

7.41 Of these appropriations carried forward to 1977 only 6 005 974 u.a. were made in payments and at the end of that year the non-utilized appropriations (13 994 026 u.a.) were cancelled. Part of this sum (10 796 000 u.a.) was re-entered in the 1978 budget and the balance is to be brought into the 1979 budget.

7.42 Parliament and the Council did not reach agreement on the utilization of the 1977 appropriations until November of that year. On 15 December 1977 the Commission concluded 20 financial agreements with countries and international organizations and committed the 45 million u.a. charged to this budget item. No corresponding payments have yet been made.

SCHEMES FOR DEVELOPING COUNTRIES BY NON-GOVERNMENTAL BODIES

7.43 In 1976 the Commission adopted rules for the selection of organizations and programmes and the financial procedure for this new type of scheme. During the first year the Commission chose 76 projects from 33 organizations. At the close of the financial year 1977 all the appropriations committed in 1976 (2 500 000 u.a.) had been spent.

7.44 The total appropriations in the 1977 budget (4 000 000 u.a.) were committed for 113 projects undertaken by 43 non-governmental organizations from the nine Member States. They involve 46.38 % for Africa, 38.08 % for Asia, 11.28 % for Central and Latin America, 2.88 % for the Middle East and 1.38 % for the Caribbean. The Table belows shows the allocation of appropriations according to the nature of the activity involved:

Table 26

	Number of projects	Amount in u.a.	Percentage
1. Economic development			
— agriculture and fishing	14	508 881	12.7
— small manufacturing and trading firms	12	358 674	9
— infrastructure	14	383 123	9.6
2. Social development			
— education and training	27	874 546	21.8
— health	22	646 546	16.2
— homes, social centres, play schools, etc.	11	509 592	12.7
3. Rural development	13	718 638	18

SUBSIDY FOR THE EUROPEAN ASSOCIATION FOR COOPERATION

7.45 Owing to the usual late submission of accounts by this organization the Court was only able to examine the 1976 accounts. For that year expenditure on the Association's headquarters charged to the Commission's budget amounted to 1 136 610 u.a. (including 10 584 u.a. in EEC fixed assets), an increase of 35.16 % over the 1975 figure of 840 942 u.a. Of this sum 945 199 u.a. relates to staff costs, representing an increase of 29.1 % for this item over 1975. The main reasons for the increase in staff costs were an adjustment of salaries and an increase in contributions to the Belgian social security and pension scheme.

7.46 Operating expenditure at 180 825 u.a. increased by 83.8 %, part of which was accounted for by the procedures involved in selecting those people forming the 41 delegations provided for under the Lomé Convention. Expenditure on property — including the cost of extensions and rents, showed an increase of 55.7 % over the previous year. Sundry debtors in the books of headquarters amounted to 239 155 u.a. but this total included 193 616 u.a. incorrectly charged to 'headquarters' instead of to overseas activities. This error was adjusted during the first quarter of 1977.

INTEREST SUBSIDIES ON LOANS GRANTED BY THE EUROPEAN INVESTMENT BANK TO PORTUGAL

7.47 Several loans have been granted by the Bank for a shorter period than the one used in the estimated calculations. Since then the cost of these interest subsidies has been lower than expected and only 12 453 541 u.a. in commitments and 11 123 760 u.a. in payments were used out of the appropriations entered into the budget (15 895 000 u.a.).

CONCLUSIONS

7.48 The appropriations charged to Title 9 of the budget are for the most part reserved for food aid. This type of aid has developed considerably since its initial conception in 1968. In the beginning the aid consisted of types of food which in general were in surplus production in Community countries. In certain respects aid to poor countries was above all an instrument of the common agricultural policy. It

was therefore included under the expenditure of the EAGGF Guarantee Section, its accounts met with the same delays and audit procedures were neglected.

7.49 In subsequent years this type of aid tended to take the form of one-off attempts to overcome nutritional deficits or temporarily to assist countries in serious balance-of-payments difficulties. In this context, where the speed of execution took precedence over other considerations, allowances had to be made for all anomalies and irregularities. For political reasons it was desirable that audit operations should not infringe the national sovereignty of the countries in question.

7.50 After the entry into force of the Lomé Convention, aid supplied by the Community to the development of associated States took on a contractual character, enabling the donor and recipient countries to agree upon the various kinds of aid offered by the Convention and to choose according to those interests which were considered of prime importance by the developing countries. This same contractual character is becoming more marked in the aid agreements concluded with the non-associated third countries.

7.51 This freedom of choice for the partners is an element which extends beyond food aid to the whole field of development cooperation. Hence Title 9 of the Community budget is headed 'Cooperation with developing countries and non-Member States'. But a corresponding obligation is that as regards the execution and auditing of these budget items, the criteria which are generally applicable for other Community expenditure should be rigorously observed.

7.52 Bearing in mind these two main characteristics, i.e. contractual aid between independent partners and the inclusion of aid in a budgetary context complying with strict rules in order to allow the budgetary authorities to have a correct idea of the application of aid, several comments are called for which should be brought to the notice of those responsible for the utilization of these appropriations:

1. The execution of cooperation agreements and aid agreements in general is subject, pursuant to the terms laid down by the agreements, to audit 'by the Community'. This audit is carried out in accordance with the provisions relating to the Treaty and the Regulations in force and the Court of Auditors should totally fulfil its role of external audit body.
2. Audit operations by the Community organizations and the possible establishment of deficiencies in

the execution of contractual obligations by the organizations or the donor or recipient States are not to be considered as unwarranted intervention.

3. With regard to the delays in the execution of the food aid operations, the responsibility is shared between the Commission and the Council, while according to the Treaty it is the Commission which sees to the execution of the budget on its own authority.
4. The Commission must guarantee the implementation of its obligations entered into the aid agreements and it should in particular be opposed to all abuse in the re-utilization of the proceeds from sale of the food aids.
5. In relations with transport suppliers and others the terms of the contract should be drawn up in such a way as to clearly specify the responsibilities

of the parties and to set out the measures for making good losses as required.

6. In accordance with the Financial Regulation recovery orders should be made out and entered in the accounts for all claims for reimbursement of additional expenditure incurred in carrying out aid programmes. Any contractual claims waived by the Commission should be shown in the accounts.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 7.43 to 7.52, as follows:

In conclusion, the Commission would emphasize that it is most concerned to assume its full responsibilities in respect of the implementation of the budget in accordance with the Treaties.

Chapter 8 — Staff expenditure

STAFF AT 31 DECEMBER 1977

8.1 At the end of the financial year 1977, the total staff in the institutions amounted to 13 925 officials and temporary staff compared with 13 022 at 31 December 1976 (+ 6.93 %).

Table 27

	Staff at 31 December		% Increase
	1976	1977	1976/77
Parliament	1 339	1 440	+ 7.54
Council	1 354	1 378	+ 1.77
Economic and Social Committee	288	298	+ 3.47
Audit Board	26	25	- 3.85
ECSC Auditor	5	5	—
Court of Auditors	—	—	—
Commission:			
— operational	7 670	7 952	+ 3.68
— research and investment	2 100	2 573 ⁽¹⁾	+ 22.52
Court of Justice	240	254	+ 5.83
Total	13 022	13 925	+ 6.93

⁽¹⁾ Not including former local staff (452 at 31 December 1976 who were not appointed temporary staff until the financial year 1977 (Council Regulation No 2651 of 21 October 1976).

8.2 In addition to the posts provided for in the budget, there were 941 auxiliary staff, local staff and

special advisers. At 31 December 1977 they were distributed as follows:

Table 28 — Auxiliary staff, local staff and special advisers at 31 December 1977.

	Auxiliary staff	Local staff	Special advisers
Parliament	78	83	—
Council	2	77 ⁽¹⁾	—
Economic and Social Committee	14	7	—
Court of Auditors	12	—	—
Commission:			
— operational	77	724 ⁽¹⁾	20 ⁽²⁾
— research and investment	32	—	—
Court of Justice	11	7	—
Total	226	898	20

⁽¹⁾ Including local staff paid by ex-budget managements (restaurants, crèches, etc.).

⁽²⁾ Including two former officials not in receipt of salaries as special advisers.

8.3 The reduction in the number of local staff (from 1311 at 31 December 1976 to 898 at 31 December 1977) is mainly due to the inclusion of the local staff at the Joint Research Centre in the new temporary staff system.

— if a woman, be more than 55 years of age; or

— be under 18 years of age (26 if undergoing a course of education or vocational training); or

— suffer from illness or infirmity, so that he must be cared for.

PERSONS TREATED AS DEPENDENT CHILDREN

8.4 Under Article 2 (4) of Annex VII of the Staff Regulations, any person whom an official has a legal responsibility to maintain and whose maintenance involves substantial expenditure may, exceptionally, be treated as if he were a dependent child. To determine the validity of a claim to this allowance a reasoned decision of the appointing authority, based on supporting documents, is necessary.

8.5 To apply this measure, the various institutions adopted identical implementing rules which provide that:

(i) the person for whom the official claims must:

— if a man, be more than 60 years of age; or

(ii) the contribution of the official to the maintenance of the dependant must (a) not be less than the amount of the dependent child allowance (at present BFR 3 462 a month), and (b) not less than 20 % ⁽¹⁾ of the amount of his taxable income (including any other net earnings).

(iii) The presumed cost of maintaining the dependant is calculated as equivalent to 60 % of the basic salary in grade D 4 step 1 (BFR 17 944 a month under the salary scale applicable on 1 July 1977, weighting = 100). This amount is reduced, however, by any net earnings of the dependant and by a due proportion of the cost of

⁽¹⁾ This percentage is increased by 10 for every additional person.

maintenance borne by other persons under an obligation to maintain him. The presumed cost may be increased in certain circumstances.

8.6 The following Table shows the number of dependants for whom allowances are paid as at the end of January 1977.

Table 29

	Italian	French	Belgian	German	Lux.	Others	Total
Commission							
Brussels	143	16	22	10	1	—	192
Luxembourg	25	4	—	4	—	—	33
JRC	83	3	2	2	—	—	90
Parliament	55	5	4	6	2	2	74
Council	37	4	3	—	—	1	45
Court of Justice	2	1	—	1	—	—	4
ESC	1	—	—	—	—	—	1
Audit Board	3	—	—	—	—	—	3
Total	349	33	31	23	3	3	442

About 80 staff were in receipt of more than one allowance (usually for both parents).

8.7 The Table shows that a high proportion of the people receiving the allowance (79 %) are of Italian nationality. The reason is to be found in the national laws of the applicant's native country. Belgian, French and Luxembourg officials have a legal responsibility to maintain parents-in-law and grandparents in addition to parents and children. Italian law goes even further by providing for compulsory maintenance as between brother and sister as well as the foregoing relationships. Under English, Scottish, Irish and Danish law, however, there is no legal responsibility to maintain anyone other than legitimate or adopted children and husband or wife. When these variations are applied to the awarding of dependant's allowances, they produce the distribution shown.

8.8 The effect on the level of remuneration of an official entitled to a dependant's allowance is not confined to his receipt of this allowance. There is also an effect on the expatriation allowance, tax relief for the dependant and, in some cases, there is access to the Sickness Insurance Scheme for Community officials ⁽¹⁾.

8.9 The Court of Auditors recommends that the problems associated with the basis on which this allowance is granted should be reviewed by the

⁽¹⁾ Under the terms of Article 3 (3) of the regulations relating to sickness insurance for officials of the European Communities, provision is made for insurance made under the sickness insurance scheme of 'persons treated as if they were dependent children provided that they cannot obtain cover under any other public scheme of sickness insurance'.

Commission. It is to be hoped that, as a result, it should be possible to remove or, at any rate, to reduce the considerable differences between the net pay of one official and another, both having the same grade, which can occur under the present provisions.

8.10 Apart from the general question of the effect of these allowances, the Court considers that criticism may be made of the way they apply in detail.

(i) The amount of income regarded as necessary for the maintenance of the dependant has been fixed at 60 % of salary in Grade D 4, step 1 and is subject to the weighting applicable in the country in which the dependant resides. This, of course, increases the presumed cost for persons residing in a country where the weighting is over 100. For Italy where the majority of such dependants live, the assumed cost of maintenance amounts to BFR 23 363 a month (60 % of BFR 29 906 $\times$ 130.2, the last figure being the appropriate weighting as from 1 July 1977). This seems high as the basis for the allowance.

(ii) Under Article 6 of the implementing provisions, the attribution of the allowance payable to an official who shares the cost of maintenance of a dependant with others is related to his 'disposable income' and to that of the other contributors. Under the method of calculation employed to determine 'disposable income', the other contributors are generally regarded as being able to make only a very small contribution to maintenance and the applicant official is thereby normally regarded as bearing a sufficient proportion of the cost to justify his claim to the full allowance.

(iii) In calculating a claimant's income for the purpose of this allowance (c.g. under paragraph 8.5 (ii) (b)) it is sometimes necessary to consider whether the income of husband and wife should be aggregated. Various arguments have been advanced as to why there should not be aggregation. These have seemed convincing to the institutions and the Court does not question that, on the basis of the Regulation as it stands, this is a reasonable view. But it wishes to point out that the interpretation has the result that an allowance may be given in cases where although the contribution to the dependant is greater than 20 % of the income of one spouse, it is less than 20 % of the aggregated income of husband and

wife. That aggregated income could be substantial, so that the need for the allowance is doubtful. Bearing in mind that the Staff Regulations specifically state the exceptional nature of the allowance, the Court feels that this aspect of the interpretation of the working rules should be looked at again.

(iv) Checks carried out in the files kept in Brussels revealed that, in a large number of cases, there was no evidence to show that the officials had paid the sums which they claimed to have paid for the maintenance of the persons assisted.

CONCLUSION

8.11 For the reasons set out in the preceding paragraph, the Court of Auditors is of the opinion that this allowance should in future be administered more accurately and consistently. This goal can best be achieved by a simplification of the relevant rules.

Replies of the institutions

The Commission, Council, European Parliament and the Economic and Social Committee have replied to the comments made by the Court in paragraphs 8.4 to 8.11, as follows:

Reply of the Commission

The comments made by the Court of Auditors on the geographical distribution of dependants have not escaped the Commission's notice. These disparities are due to the differences in national laws governing legal maintenance obligations upon which the grant of this allowance is based.

The Commission would like to state in this connection that the implementing provisions of Article 2 (4) of Annex VII of the Staff Regulations of officials of the European Communities concerning dependants were amended in 1975 following detailed examination by a working party consisting of representatives of the various institutions.

The Commission does not believe that another amendment after so short a period of time would be an example of good management.

Furthermore, the problem connected with the amount of the presumed burden will be resolved with the introduction of the European unit of account. Nevertheless, the Commission proposes to examine the Court's comments in detail with the other institutions. The question of more systematic control of the payments made for the maintenance of dependants will also be raised during this examination.

Reply of the Council

The Council takes note of the Court's opinion that the rules for granting this allowance should be clarified and is asking the Commission to examine whether alterations should be made.

Reply of the European Parliament

Parliament is perfectly willing to review with the other institutions and at the initiative of the Commission, the conditions for granting this allowance.

Reply of the Economic and Social Committee

To prevent irregularities the Committee has always made a scrupulous, minute examination of the information supplied in connection with such cases; in particular concrete evidence of regular payments is always requested.

Nevertheless, it seems to us that the arrangements for granting the allowance ought to be redefined and that the best way of ensuring more equitable treatment would be to define precisely those cases in which the maintenance obligation constitutes entitlement to the allowance.

MISCELLANEOUS COMMENTS

A. Reclassification of research staff

8.12 The transitional provisions of Council Regulation No 2615/76 of 21 October 1976 which introduced the new conditions of employment for research staff (Article 2) state that establishment staff and local staff in service on the date on which the Regulation came into force should be offered a contract in the new categories of temporary staff in Category C or D.

8.13 In the vast majority of cases this category classification was carried out in accordance with the terms of Article 2 (b) of Regulation No 2615/76 and of Article 4 of the Conditions of Employment of other servants. The effect was that members of establishment staff in Class 1 were placed in Category C while establishment staff in Class 2 and local staff were placed in Category D.

8.14 On carrying out a check of the duties performed by the members of staff who had been reclassified, the Commission's financial controller withheld his approval with respect to 29 former establishment staff and 49 former local staff who had been placed in Category C. In his opinion, these staff were employed in D-level posts and ought in consequence to be so classified.

8.15 The Commission considered that in 9 cases (8 former establishment staff in Class 1 and 1 former member of local staff) the level of work performed justified C classification. In the 69 other cases, the Commission was reluctant to worsen the position of those concerned by reclassification. These persons had formerly been the subject of administrative decisions which had placed them in Class 1 (i.e. on the same footing as C staff) or gave them similar advantages. The Commission decided to classify all 69 staff in Category C 'on a personal basis', thereby overriding the opinion of the financial controller.

8.16 Without wishing to underestimate the difficulties with which the Commission was faced, the Court nevertheless considers that the financial controller was justified in his views. The present contracts for the 69 employees do not properly reflect the facts. Article 2 (2) of Regulation 2615/76 protects the financial position of staff who have been reclassified by saying that such an official shall receive a 'basic salary such as will ensure that his net remuneration is at least equal to the net remuneration which he received before the new contract was concluded'. The Article does not, however, authorize any variation of the principle that classification should reflect the duties performed.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 8.12 to 8.16, as follows:

The Court of Auditors has perfectly grasped the reasons why the Commission has taken this decision concerning the classification of research staff subject to the new system. It was a question of not allowing these officials' financial situation to deteriorate and not rendering null and void previous administrative decisions concerning them.

Comment of the Court of Auditors.

The Court points out that the aim of the provisions of Regulation 2615/76 is to protect the financial position of staff who have been reclassified. They should not be interpreted as authorizing any variation of the principle that classification should reflect the duties performed, as defined under Article 5 of the Staff Regulations. Consequently, the Court of Auditors is bound to approve the position adopted by the financial controller.

to these allowances, and their rates and conditions, are set out in Council Regulation No 300/76 of 9 February 1976 (OJ L 38 of 13. 2. 1976).

8.18 Article 56b provides that a standby allowance may be given to an official required to remain on duty at his place of work or at home outside normal working hours. The detailed rules for this allowance are set out in Council Regulation No 495/77 of 8 March 1977 (OJ L 66 of 12. 3. 1977).

8.19 The allowances in the two preceding paragraphs apply mainly to staff paid out of the research budget. A third allowance applies exclusively to such staff paid therefrom. This is dealt with under Article 100 of the Staff Regulations and is intended to compensate for particularly arduous working conditions. The detailed rules are contained in Council Regulation No 1799/72 of 18 April 1972 (OJ L 192 of 22. 8. 1972).

Magnitude and trend of expenditure

B. Allowances under Articles 56a, 56b and 100 of the Staff Regulations

Provisions in force

8.17 Article 56a of Staff Regulations provides that an allowance may be paid to an official on shiftwork who works regularly at night, on Saturdays, Sundays or public holidays. The categories of officials entitled

8.20 The amounts paid in respect of these three allowances are substantial, as shown in the following Table of sums charged against research and investment appropriations for the financial years 1974-76.

The corresponding amounts for the financial year 1977 had not been notified to the Court of Auditors at the time when this report was being prepared.

Table 30

Budget heading	1974 (in u.a.)	1975 (in u.a.)	Increase 1974/1975 (%)	1976 (in u.a.)	Increase 1975/1976 (%)
1182 (arduous working)	452 277	594 085	+ 31.35	655 138	+ 10.28
1183 (shift work)	267 464	442 679	+ 65.51	418 712	- 5.42
1184 (stand-by)	129 104	184 496	+ 42.09	185 727	+ 0.67

Reports to the Council

8.21 Regulation (Euratom) No 1799/72 (arduous working allowance) states that the Commission shall, in April each year, submit a report to the Council showing:

- (i) the number of officials and servants in each category who have received the special allowances referred to in the Regulation, analysed according to the various installations of the Research Centre and on the number of hours worked under the various conditions set out in the Regulation;

(ii) the total expenditure relating to those allowances. Regulation No 495/77 of 8 March 1977 (stand-by allowance) requires a report on similar lines.

8.22 No report as provided for in these two Regulations has ever been submitted to the Council, and the Council does not appear to have called for one. The Court of Auditors considers that the Commission should take the necessary action to ensure that the requirements of the Regulations are observed in the future.

Allowances for arduous working conditions

8.23 Under the terms of Article 100 of the Staff Regulations and of Article 1 of Regulation No 1799/72

allowance for arduous working conditions may be granted only to officials covered by Article 92 of the Staff Regulations, that is to say, 'officials of the Communities who occupy posts in the field of nuclear science calling for scientific or technical qualifications'.

8.24 It is very doubtful whether some of the present recipients, especially among those in Category D, satisfy this condition. The following Table, showing the position at December 1977, indicates the number of officials and servants at the Ispra establishment who were in receipt of the allowance.

Table 31

Category	Scientific/ technical total staff complement	In receipt of allowances	Column 3 Column 2 (%)
A	335	—	—
B	457	205	45
C and D	534	465	87
Total	1,326	670	50

8.25 At the end of 1976 a working party appointed by the Commission to study the use of this allowance submitted a report which, *inter alia*, recommended the strict application of the Regulation, especially as regards the granting of the allowance to categories of staff engaged on scientific or technical work. The working party thought there should be reconsideration of the question as to whether there is any justification for granting the allowance to certain categories of staff (removal men, firemen, etc.) whose work does not fulfil the conditions laid down; and commented that the system of awarding points to determine the amount of allowance for certain work considered to be particularly arduous, was somewhat generous.

8.26 As a result of this report the Directorate-General of the Joint Research Centre adopted, in April 1977, new internal directives on the application of the Regulation to the Centre. The Court of Auditors has nevertheless found that the anomalies referred to still continue and recommends that consideration should be given to the revision of the Regulation as soon as possible to make it more

clear and to ensure it is used in the circumstances intended.

Allowances for shiftwork — Telex service

8.27 Article 1 (1) of Regulation No 300/76 provides that only officials who are paid from appropriations in the operational budget and are employed at a computer centre or a security department can receive an allowance for shiftwork. The Commission has extended payment of the allowance to staff of the telex service attached to Berlaymont-Cortenbergh switchboards in Brussels (33 staff at the middle of 1977) and to the telex at the Directorate-General for Agriculture (22 staff).

8.28 In October 1976 the financial controller objected to this extended application of the allowance. His view was that the arguments of the Commission, particularly those equating the telex

service to a security department could not be sustained and would make it impossible to restrict the allowance to its intended purpose.

8.29 On 27 April 1977, the Commission decided to override the financial controller's refusal of approval and to pay the allowance for shiftwork to telex staff with effect from 1 April 1977.

8.30 The Court of Auditors supports the view of the financial controller and seeks the comments of the Commission on their action, which appears contrary to the purport of Regulation No 300/76.

Replies of the institutions

The Commission and the Council have replied to the comments made by the Court in paragraphs 8.17 to 8.30, as follows:

Reply of the Commission

Although the figures contained in the table of allowances under Articles 56a, 56b and 100 of the Staff Regulations do not cover the 1977 financial year, it should be noted that the favourable effects of the administrative reforms undertaken by the new Directorate were felt particularly strongly from 1976 onwards.

The Commission is at present drawing up the reports on the implementation of the Regulations concerning allowances for arduous working and stand-by allowances for 1977. These reports should be completed by the end of the year.

As regards entitlement to the arduous working allowance, it should be recognized that the allocation of a certain number of staff to scientific or technical work or to administrative work will always lead to discussions and opposing arguments in a number of cases. The most important problem is that of infrastructure. It is currently being examined by the departments of the JRC, prior to a decision by the Director-General.

It was found soon after adoption of Regulation No 300/76 concerning allowances for shiftwork that strict interpretation of this Regulation would lead to differing treatment of officials in the same position. Shiftwork was required for reasons of efficiency, economy in staff costs and

equipment, and the need to arrange special operating hours for the telex service. The Commission was of the opinion that the smooth operation of this service was indispensable for the security of the matters dealt with, but must not involve the abovementioned inequalities, and considered that entitlement to this allowance should be extended to staff attached to this service. However, it heeded the objection of the financial controller and drew up a draft Regulation to extend the scope of Regulation No 300/76 to staff of the telecommunications services and some film-setting services. This proposal is now being studied by the competent offices of the Commission.

Reply of the Council

The Council is asking the Commission to submit to it in future the reports referred to in Regulations Nos 1799/72 and 495/77.

Comment of the Court of Auditors

The Court has noted the procedures currently underway. It requests that the results be forwarded in writing as soon as possible.

C. Compensation for belated reinstatement after leave on personal grounds

8.31 Under Article 40 of the Staff Regulations, an official may, in exceptional circumstances and at his own request, be granted unpaid leave on personal grounds. When his leave ends, he must be reinstated in the first post corresponding to his grade which falls vacant in his category or service, provided that he satisfies the requirements for that post.

8.32 In July 1975 an official in Grade A 6 who had been granted leave on personal grounds from 1 June 1969 until 31 May 1972 and who, despite the existence of earlier vacancies in his grade, had been reinstated with effect only from 15 August 1974, brought an action before the Court of Justice of the European Communities for annulment of the reinstatement decision and damages for the loss he had suffered. In a judgment given in July 1976 (Case No 58/75) the Commission was ordered to pay to the applicant compensation equivalent to the net loss of

salary from 15 August 1972 to 31 August 1973 (12 036 u.a.) together with interest at 8 % from 9 December 1974 (the date of his complaint) and to determine his seniority anew in Grade A 6 as though he had been reinstated on 15 August 1972.

8.33 On the basis of this decision, the Commission was obliged to pay compensation to four other officials for belated reinstatement on the expiry of leave on personal grounds. In one case, the period concerned extended to August 1977 (i.e. over a year after the Court of Justice had delivered judgment).

The four compensation sums (charged against Article 234 of the budget, 'Damages') were 6 788, 11 006, 19 979 and 32 070 u. a. ⁽¹⁾. The figures represent the total emoluments which the officials would have received if they had occupied their posts from the date on which they ought to have been reinstated until the actual date of reinstatement. These periods ranged from 4½ months to almost three years.

8.34 The Court considers that management expenditure of such magnitude could have been avoided. The expiry of leave on personal grounds is a sufficiently foreseeable event to permit steps to be taken to ensure that there is a return to duty in an appropriate post in good time. Instead, obligations have been incurred to pay out large amounts without any consideration in the form of service rendered. A solution should be easier to find in an institution such as the Commission among whose large staff vacancies must continually arise.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 8.31 to 8.34, as follows:

Following Judgment No 58/75 of the Court of Justice of the European Communities, the Commission took appropriate internal measures to avoid administrative expenditure resulting from the belated reinstatement of an official after leave on personal grounds.

⁽¹⁾ At the time this report was being prepared, the figure of 32 070 u.a. had not been finalized.

Three of the four cases to which the Court of Auditors refers date from the period before the judgment of the Court of Justice. In the fourth case, where the period extended until August 1977, reinstatement was delayed by administrative problems which should not recur following the introduction of the abovementioned measures.

These measures may be summed up as follows:

- (i) the person in question will be asked three months before the end of his leave on personal grounds to confirm whether he wishes to be reinstated or whether he wishes to resign;*
- (ii) all the posts becoming vacant will be examined before publication and, where applicable, offered to the official awaiting reinstatement if he satisfies the requirements for that post;*
- (iii) as a precaution, each official awaiting reinstatement will be sent the vacancy notices published for posts of his grade;*
- (iv) after twice refusing posts which would have allowed him to be reinstated, the official is automatically required to resign in accordance with the procedure provided for in Article 40 of the Staff Regulations.*

Comment of the Court of Auditors

The Court hopes that the measures taken by the Commission will, in future, prevent expenditure resulting from belated reinstatement.

D. Drivers' overtime

8.35 Within the limits (150 hours in any six months) laid down in Article 56 of the Staff Regulations, overtime worked by an official in Category C or D may entitle him to remuneration in the form of a fixed allowance. The Commission makes payments of this kind to drivers, secretaries of members of the institution and telephone switchboard staff.

8.36 Following Council Decision No 3177/76 of 21 December 1976 on the alignment of the remuneration of officials and other servants of the Communities, the Commission decided to base the allowance of pool-drivers as from 1 July 1976 on that of the remuneration of an official in grade D 1, step 8 and to link the allowance to the increases in salary.

8.37 The financial controller refused to approve this draft decision, considering that the compensation proposed exceeded the limits laid down by the Staff Regulations.

8.38 By a decision of 23 March 1977, the Commission overrode this refusal on the grounds that the main decision in respect of the remuneration of a driver in Grade D 1, step 8, went back to 1972. The Court of Auditors is of the opinion that, in taking this decision on such grounds, the Commission cannot be said to be 'stating the full reasons' for overriding the view of the financial controller, as required by Article 35 of the Financial Regulation.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 8.35 to 8.38, as follows:

In its Decision of 23 March 1977 to override the financial controller's refusal to approve compensation for the drivers' overtime, the Commission stated that, as the main decision concerning the remuneration of a D 1/8 official went back to 1972, it should not be called into question. However, this aspect is not the main reason for its decision.

For reasons of fairness, there can be no question of providing different remunerations to officials of different steps or grades as part of a system of flat-rate compensation. If varying levels of compensation were required for one and the same service, it would be necessary to fix as many allowances as there are officials of different grades and steps carrying out their duties in the same special working conditions; these allowances would no longer be flat-rate allowances. Article 3 of Annex VI of the Staff Regulations expressly states that these special working conditions for a group of officials may be compensated in the form of a fixed allowance. This formulation shows that the Commission is not exceeding the limits laid down by Staff Regulations.

Comment of the Court of Auditors

It is true that Article 3 of Annex VI of the Staff Regulations grants the institutions the possibility of compensating certain groups of officials by

means of a fixed allowance whose amount and method of attribution are determined by the appointing authority.

It does not, however, seem compatible with the principle of sound financial management to take as criteria both the maximum number of hours overtime authorized by the Staff Regulations (Article 56 = 150 hours in any six months) and the salary of an official in grade D 1, step 8, as this salary is only applicable to a small number of those receiving the allowance.

E. Computer studies

8.39 For the processing of staff data the Commission uses computer programme systems for various subjects, each one having its own index. It was suggested that these different indexes should be combined to avoid duplication and to achieve economies in staffing. After the matter had been considered for some time, at the end of 1975 the Commission hired the services of a firm specializing in information systems (under a contract worth 55 200 u. a.).

8.40 From 1975 to 1977 several contracts were entered into with the firm referred to in the previous paragraph with a view to producing a programme which would permit the authorization and clearance of mission expenses to be computerized. The amounts (approximately 40 000 u. a.) provided for under these contracts appear to have been paid in full under Article 224 of the budget but no rationalization measure affecting the reimbursement of mission expenses has yet been put into effect.

8.41 Since the object of each of these exercises is economy in management, the Court considers that every effort should be made to complete and give effect to the studies. The Court is unaware of any action that has been taken so far and asks for information on the matter.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 8.39 to 8.41, as follows:

The Commission's decision to renew its computer equipment has had a number of consequences as regards the following utilizations:

The findings of the studies are now being put into practice: it has been decided to convert the programmes to suit them for the new equipment before putting them into operation.

The Commission's computer staff is currently converting existing operations to the new material. The staff needed to continue the work already conducted by an outside firm (recording and establishing of staff data) will be available in 1979.

Comment of the Court of Auditors

The Court stresses the urgency required in rationalizing the administration of mission expenses.

F. Terms of employment

8.42 Of a number of comments made in the annual reports of the former Audit Board which still remain uncleared, the Court wishes to raise again the question of the employment of staff who have been engaged otherwise than under arrangements prescribed in the regulations. According to information available to the Court of Auditors, the Commission has recently embarked on an investigation of this general problem, and the working party set up has already submitted a report

to the Commission. The Court wishes to receive a copy of this report as soon as possible and to be informed of the action which the Commission proposes to take on the proposals in it.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 8.42, as follows:

The working party responsible for examining the position of staff not covered by the Staff Regulations or the system applicable to other servants has not yet completed its report. The Commission will not fail to inform the Court of the contents of the report when it is completed and the action it intends to take to follow up the working party's conclusions.

Comment of the Court of Auditors

The Court is surprised that the working party has not yet submitted its report to the Commission and regrets that a solution to the problem of staff engaged otherwise than under arrangements prescribed is thus considerably delayed.

Chapter 9 — Operational expenditure

INTRODUCTION

9.1 Title 2 in the budget covers most of the expenditure necessary for the daily running of the institutions of the Communities other than that directly on staff (which is under Title 1). Title 2 also covers expenses of (a) meetings, etc. with government officials, experts and other representatives from the Member States (Chapter 25); (b) studies, surveys and consultations (Chapter 26); (c) publications and information (Chapter 27) and (d) some subsidies

(Chapters 28 and 29). Expenditure for 1977 under Title 2 amounted to 150-403 million u.a.

COMMENTS ON THE 1977 ACCOUNTS

Overall expenditure

9.2 Amounts arising in connection with Title 2 operations during 1977 in the five institutions audited were (in u.a.):

Table 32 — Appropriations broken down by budget heading

(in u.a.)

Chapter	Original budget	Final budget	Total commitments
20. Immovable property investments	320 000	600 000	458 212-48
21. Rental of buildings and associated expenditure	47 976 980	47 550 980	45 729 631-92
22. Movable property and associated expenditure	13 411 220	16 198 220	14 867 057-04
23. Current administrative expenditure	24 320 690	23 250 690	19 998 893-44
24. Entertainment and representation expenses	719 235	765 235	755 731-96
25. Expenditure for formal and other meetings	13 686 000	13 686 000	11 481 836-46
26. Expenditure on studies, surveys and consultations	12 544 500	12 722 018	12 596 535-38
27. Expenditure on publishing and information	20 962 900	21 392 900	20 764 164-86
28. Subsidies for balancing of budgets	19 797 000	23 055 407	21 849 374-60
29. Subsidies and financial contributions	1 713 400	2 038 400	1 901 505-32
	155 451 925	161 259 850	150 402 943-46

Table 33 — Appropriations of each institution

Institution	Original budget	Final budget	Total commitments
Parliament	12 390 775	14 731 775	12 829 742-82
Council	21 616 940	21 620 940	18 719 397-40
Commission	114 495 140	117 933 065	112 714 943-40
Court of Justice	3 250 070	3 250 070	2 679 058-28
Economic and Social Committee	3 699 000	3 724 000	3 459 801-56
	155 451 925	161 259 850	150 402 943-46

The differences between the original and final budget figures derive from transfers made during the year, from an increase to Chapter 28 of 2 768 300 u.a., authorized by the amending and supplementary budget No 1 (OJ L 233 of 12. 9. 1977), and from transfers from Title 10 provisional budget appropriations). Transfers within individual chapters were also made.

Applications of budgetary control

9.3 In its examination of transactions in 1977, the Court noted that the application of the principles of sound budgetary and financial control were not always followed. Examples are given in the following paragraphs. To some extent these occurred because of the absence of uniform financial rules in the

institutions. It is essential that this be remedied in the near future by the preparation of uniform rules under Article 106 of the Financial Regulation of 21 December 1977.

Reply of the Commission

The uniform regulations required by Article 106 of the Financial Regulation of 21 December 1977 to which the Court of Auditors alludes were already in use under the old Financial Regulation of 25 April 1973. The purpose of the Commission Regulation of 30 June 1975 was to implement certain provisions of the Financial Regulation of 25 April 1973 (OJ L 170 of 1. 7. 1975). This Commission Regulation is to be revised as soon as the EUA is introduced into Community acts. It should also be noted that the 'Regulation containing implementing procedures' cannot settle all the details which arise (moreover, there are 'internal implementing rules' for the different sections of the general budget of the European Communities). The Commission will do everything in its power towards a more uniform application of the Financial Regulation.

Reply of the Council

The Council shares the Court's opinion that the implementing rules to the Financial Regulation of 21 December 1977 should be prepared as quickly as possible in accordance with Article 106 of the Financial Regulation.

Reply of the Parliament

Parliament has still to be consulted by the Commission on the procedure for implementation of the new Financial Regulation. Meanwhile, it considers that the implementing Regulation of 30 June 1975 is still valid to the extent that it remains compatible with the provisions of the new Financial Regulation.

Reply of the Economic and Social Committee

Implementation of the arrangements provided for in Article 106 of the Financial Regulation of 21 December 1977 would certainly ease the situation. It is therefore to be hoped that the competent authorities will take the necessary steps to fill this gap in the law.

9.4 The application of these rules would be strengthened by the adoption of common procedures by the institutions. For instance, for each commitment proposed, the authorizing officer initiates a commitment order. In due course, validation of expenditure takes place and payment on a payment order is authorized. Each institution has designed its own forms for these purposes, even though the functions are identical. It is the Court's opinion that common forms identified with a heading naming the institution concerned would be more economical and practical.

Reply of the Commission

The forms mentioned by the Court are devised as part of the 'internal implementing rules', the adoption of which is a matter for each institution. It probably would be more practical to use common forms for the different institutions, and efforts should be made to introduce such a measure.

Reply of the Council

It is also of the opinion that the abovementioned rules would be implemented more effectively if common procedures were adopted by the institutions.

Reply of the Parliament

Rationalization of the accounting systems and corresponding forms might be envisaged — Parliament being ready to work towards that end with the other institutions — to the extent that the use of different types of accounting machines in the institutions is not an obstacle to the desired standardization.

Reply of the Economic and Social Committee

The implementation of uniform procedures would probably tighten up application of the rules.

We were at pains to bring the Court's comments on this matter to the attention of the department concerned, stressing the usefulness of reciprocal inter-institutional information.

9.5 Variations also occur in the institutions' interpretation of the scope of budgetary heads. Common practices should be encouraged by the Commission's budget presentation, and the institutions should use similar treatment in their budgetary charging, thus improving budgetary control and showing more clearly in the accounts the full costs of any activity.

Reply of the Commission

The Commission shares the Court's concern about the different budgetary headings used by the institutions, a practice which results in diverging criteria for charging expenditure. The Commission is prepared to cooperate in any attempt to harmonize practice here.

Reply of the Council

The Council has drawn the attention of its departments to these comments by the Court of Auditors and suggests that the Commission investigate ways and means of meeting these objections.

Reply of the Economic and Social Committee

Budgetary control — even budgetary allocation — would be much easier if all the institutions were to apply uniform criteria for the various appropriations. This presupposes, however, that all the institutions have similar budgetary strategies, which is not currently the case.

9.6 Common rules and procedures could also encourage more consistency between the institutions as regards donations for the support of various societies and associations. For example: l'Association des Journalistes en Europe received 85 000 u.a. from the Commission and 2 000 u.a. from Parliament; the International Press Club 66 000 u.a. from the Commission and 15 600 u.a. from the Council; and the Maison Européenne de Val Duchesse 35 000 u.a. from the Commission and 700 u.a. from the Council. It would be advantageous if the proposed uniform rules provided for coordination of such donations through one institution's budget.

Reply of the Council

An exchange of information between the institutions on subsidies granted to various societies and associations should be envisaged in due course on the Commission's initiative, bearing in mind the constraints of the budget timetable.

9.7 Differences in accounting treatment also occur within an institution. Examples are:

- (i) The Commission at Luxembourg has restored the Foyer européen, 41, rue Notre Dame, for use as a staff club. The costs of this work and of running the Foyer were charged to various budget headings, e.g.:

1410	Staff recreational centres and clubs	2 154
2100	Rent	29 121
2130	Cleaning and maintenance	5 268
2140	Fitting-out of premises	87 178
2190	Other expenditure	2 780

The Court suggests that, in the interests of clarity, all these expenses could be regrouped in Title 2 of the budget under a suitable heading, e.g. 'social contacts between staff'. It notes that similar costs for the European Sports Club at Overijse were charged by the Commission at Brussels in 1977 almost entirely to Items 1410 (204 466 u.a.) and 2140 (125 305 u.a.).

- (ii) The Commission at Brussels charged costs of Commissioners' cars arising from renting garages to Item 2233 (transport: maintenance, use and repair) and those arising from parking to Item 2100 (Rent).

Reply of the Commission

The Commission does not think that a new Article under Title 2 — 'social contacts between officials' — which would duplicate Article 141 — would add to the clarity of the budget. In the Commission's view, expenditure incurred under Titles 1 and 2 of the budget should generally be charged according to its nature, and not its destination; this is because such a procedure constitutes a detailed analysis of the overall operational costs of the institutions on the basis of criteria which can be adjusted directly and effectively. It is also possible to reconstitute, on

the basis of the entries in the accounts and the supporting documents for the expenditure, the total cost of the operations which the Court thinks should be examined in detail. The improvements to the staff centre in Luxembourg and the sports centre in Overijse were charged in accordance with this principle. It should also be noted that the choice between the two methods of charging is not simply a matter of clarity, for perfect clarity can be achieved by either method. There are many reasons governing the choice, including policy requirements set by the Budgetary Authority.

The Commission charges expenses in respect of the Commissioners' cars to Item 2233 and not Item 2100 'Rentals', since the renting of a garage or car park by the Commission is not concerned here; these expenses are for the safe keeping of these cars, expenses which are high compared with those in respect of other service vehicles. In this particular case, the Commission has tried to gather expenditure relating to the running of its motor fleet into the same Chapter, following the principle of charging in accordance with the nature of the expenditure.

Comment of the Court of Auditors

Some clarification in the identification of the costs of certain activities is needed. The problem will be examined in connection with the audit of the 1978 accounts.

9.8 Cases were also seen in which commitments did not comply with the relevant budget authorizations. Thus:

- (i) Article 254 in the Commission's budget was intended to cover expenses relating to the Forum for Youth Affairs, the establishment of which had been proposed to the Council on 7 March 1975 (Doc. COM (75) 27 fin.) Two payments totalling 70 000 u.a. were made against this heading in 1977 to a temporary secretariat for the Campaign for Young People, although the Council has not yet taken a decision to establish the Forum.
- (ii) The appropriation to Item 2552 'Conferences, congresses and other meetings in connection with the ECSC' in the financial year 1977 was

intended to cover the costs of the symposium on combating pollution in coking plants, including any expenditure which could not be covered by the relevant department of the Commission. Included in the total payments of 29 039 u.a. charged to this item was 6 245 u.a. for temporary secretarial staff supplied through an outside agency to help out at the Commission in Luxembourg during the period May to November. It thus appears that charges to this heading did not all arise from meetings.

Reply of the Commission

On 29 June 1977 the Council decided not to endorse the Commission's proposal for a decision setting up a European Youth Forum; but, to take account of the interest shown by the Commission and Parliament in involving young people more closely with the building of a united Europe, the Council agreed to the transfer of 50 000 u.a. from Chapter 98 to Article 254 of the 1976 budget for setting up a temporary secretariat for young people as the forerunner of a European Youth Forum. The amount was increased to 190 000 u.a. for 1977 after the inter-institutional procedures in force had been applied.

In the Commission's view it is essential to provide Directorates-General which are organizing conferences, symposia, etc., with a global budget to cover all costs of organization (preparation, implementation and exploitation) including secretarial expenses. These vary according to the number of reports submitted, discussed and later distributed. In the case in point, the secretarial work was particularly heavy, because the symposium concerned all three areas of ECSC research (coal, steel and social matters). The staff, which the organizing Directorates-General engaged through an outside agency, had to stay with the Commission's departments, in direct contact with the officials responsible, for a period of some six months.

Applications of financial control

9.9 In accordance with paragraphs 35 and 44 of the Financial Regulation of 21 December 1977, the Court must be informed of all cases in which the superior authority of each institution overrules refusals by the financial controller, but the Court is

not informed of cases in which such refusals are accepted by the authority. During the audit, however, the Court has noted some of the latter cases of which the following should be mentioned. The financial controller of the European Parliament did not agree with the proposed endorsement of the lease for the Robert Schuman building in Luxembourg, in which it was proposed to increase the rent by 270 000 u.a. for each year from 1975. These payments were intended to be in settlement of the costs of improvements, said to have amounted to 3 398 000 u.a. The financial controller asked that a breakdown of these costs be provided, but by December 1977 the Coordinating Committee for this work proposed that only 2 651 367 u.a. of the costs should be taken into account in the calculation of the rent increase. Pending Parliament's final approval and signature of the new contract, the payments of the increased rental have been restricted to a proportion related to the capital sum proposed by the said Committee.

Reply of the Parliament

More accurately: the refusal by the Financial Controller to give his endorsement is attributable to the fact that major alteration works with substantial repercussions on the rent were carried out at the request of Parliament, but without a prior procedure to commit the corresponding funds against rental, and thus without any possibility for the Financial Control Department to intervene in respect of a whole series of measures which generate expenditure.

Pending submission of the detailed figures which the Luxembourg administration has been asked to provide, Parliament is paying the original rental to that administration on the basis of quarterly instalments.

9.10 There were several cases in 1977 where, in the view of the Court, the financial controls had not been fully or effectively applied. Expenditures were entered into either without appropriate consultation or without due regard to the advice received, and in some cases also without proper tendering procedures. It is essential that the specification upon which competitive tenders and the contract are based should be drawn up on realistic assessments of needs, and that divergences from this should be avoided as far as possible. Examples in which such divergences occurred in the equipping and improving of buildings for the institutions are given below:

- (i) On 21 December 1977 the budget authorities authorized the buying of a residence for the local information office at Ottawa. Payments were made by the Commission at Brussels rather than

through the local account, but at the time of payment (13 December 1977) no evidence was available to the Commission as to the validity of the price agreed (Can.\$ 384 90-21) (292 531 u.a.). The property was insured for a value of Can.\$ 165 000 and the Court has asked for further information.

Reply of the Commission

(i) *The provisions which apply to imprests are laid down in Article 49 of the Financial Regulation and in Articles 46 to 54 of the implementing procedure for certain provisions in the Financial Regulation. Under these provisions the decisions setting up imprest accounts determine, in particular, the nature and maximum amount of each item of expenditure which may be paid from such an account. Clearly, expenditure on the provision of buildings is never laid down in the decisions which set up the imprest accounts, and this is why payment was made at the outset from headquarters.*

Under Canadian law, real-estate transactions may only be carried out through a lawyer approved by the Government (rather as with notaries in Europe). A payment made by the Commission on 13 December 1977 to the account of the Commission's legal representative in Ottawa was made with the intention of concluding the sale; the budgetary authorities had granted their authorization. The Council's decision was taken on 21 December 1977 and the sale was actually effected on 31 December 1977 after all the evidence of the correctness of the price agreed for the purchase of the property had been supplied to the Head of the Commission's Delegation.

The building in question is not in fact insured for a value of only Can.\$ 165 000. The Court of Auditors took this figure from a policy which is no longer valid. The building is now insured under a policy covering all buildings and land at the disposal of external offices. The premium is worked out on an area basis.

- (ii) The European Parliament purchased from the Council of Europe some temporary buildings for use as offices. Under a financial contract signed on 18 June 1973, Parliament paid the Council of Europe during the years 1973 to 1976 seven instalments of 63 000 u.a. each and in 1977 made a final payment of 60 611 u.a. to cover the purchase costs of 449 026 u.a. plus interest of 52 585 u.a. No budget appropriations were

specifically made for this purchase, and the total sum of 501 611 u.a. was charged to item 2100 (Rent).

Reply of the Parliament

(ii) *The two relocatable buildings on which a hire-purchase contract was taken out in Strasbourg in 1973 to cover Parliament's increased need for premises, became the property of Parliament after payment of the 7th half-yearly instalment, stipulated in the contract. Under the terms of the contract, Parliament could have returned the buildings to the supplier at a specified price but — given the level of that price — considered it preferable to retain them, especially as new use could be made of them.*

It will be noted that the budgetary authority treated this operation as a rental, and not as the acquisition of a building against payment of instalments, since the necessary appropriations were entered each year against item 2100 'Rental'.

- (iii) Occupation of the Jean Monnet building, Luxembourg, by the Commission was completed in 1977. During the fitting out several additional facilities were considered necessary though not included in the original contract. These were put in hand without seeking competitive offers or attempts at pre-pricing. In several instances, orders to the main construction firm were given verbally. In due course, invoices for these extra works were presented, totalling 758 647 u.a. The items included:

	u.a.
Automatic barriers for garage	29 842
Simultaneous interpretation facilities	80 000
Medical equipment	81 434
Electric and telephone points	60 000
Soundproofing of meeting rooms	94 599
Hot water facilities, kitchen	38 333

The Commission requested a review of these invoices by experts, and at this stage notified the Advisory Committee of the situation. After this procedure, settlement was agreed with the constructor for the total amount of 444 470 u.a., a reduction of 314 177 u.a.

Reply of the Commission

(iii) *The work referred to by the Court of Auditors was not undertaken separately from the actual construction of the building; it was*

therefore not possible to have this work carried out by anybody other than the main contractor and the subcontractors appointed by him after a thorough survey of the market — a practice which is covered by Article 52 (e) of the Financial Regulation.

The work in question forms part of a wide range of specifications which could only be finalized during construction; most of the work is undertaken by the builder as part of the specification package. The extra expenditure is for additional work which, in many cases, could only be identified post facto and after a counter-survey undertaken by the Commission's departments. Assisted by an outside expert, these carried out a systematic check to see that the invoices were for the proper amounts. In certain cases, e.g. simultaneous interpreting facilities or radiological equipment for the medical centre, the Commission's departments themselves carried out a technical and financial review. The Commission takes the view that the extra work — which a building of this size and this sort of equipment makes inevitable — was carried out on the best possible terms.

- (iv) The owners of the Guimard building, Brussels, undertook at the request of the Commission, to erect internal partitioning at a cost of 493 793 u.a. This work was completed by March 1977, and it was agreed that the rent be adjusted to cover repayment over 10 years. The Commission then considered it necessary to make further modifications, and in this case sought the opinion of the Advisory Committee which agreed works up to a limit of 40 000 u.a. These works were put in hand without agreement on prices, and in due course invoices totalling 52 150 u.a. were received and paid.

Reply of the Commission

(iv) *Changes to the departments occupying the building in rue Guimard took place after partitioning had already been installed by the owners on the Commission's instructions. A number of partitions therefore had to be altered to meet the new requirements.*

The Commission has already explained on several occasions that changes may occur in the structure of its departments as a result of new tasks to be carried out, the establishment of task forces, and when existing departments are merged or new ones set up. It is not possible to

state precisely at the contract-signing stage what the structure of the departments will be when they move into a building. In this case, the Advisory Committee on Procurements and Contracts (ACPC), when consulted, gave a favourable opinion, saying that 'the expenditure was estimated at approximately BFR 2 000 000 (40 000 u.a.)', but this is not a ceiling.

Failures to keep within amounts committed were not restricted to building contracts:

- (v) The Office for Official Publications placed contracts for the printing of a work entitled 'Collection of the Agreements concluded by the European Communities'. Tendering procedures were properly followed in 1976, the Advisory Committee was consulted, and contracts were placed with five firms for the printing of the six language versions. The expected cost was 440 000 u.a. However, the manuscript proved to be much longer than had been foreseen, and it was also decided to vary the order by increasing the number of copies and by adopting a smaller print face. With the agreement of the Advisory Committee it was decided that new tenders need not be called for, and that the work might proceed with the original contractors even though it might now cost about 1 070 000 u.a., made up of a cost of 720 000 u.a. for the 5 volumes originally planned plus 350 000 u.a. for annual supplements for the years 1976 and 1977. To the end of 1977, payments totalling 317 089 u.a. had been charged to Article 271, and commitments of 553 891 u.a. were carried forward to 1978. Costs will eventually be borne equally by the Commission and the Council, but budgetary limitations have led to these charges being unequally divided between these institutions at present.

Reply of the Commission

- (v) *The publication in full of the agreements and conventions signed by the European Communities (compiled up to 1975 with subsequent annual updating) was a major task for which the editorial work and the administrative and technical procedures had to be undertaken in step if the results of the former*

were not to be made obsolete by developments in the latter.

Thus the first cost estimate, dating from 1976, had been carefully worked out in theory, both with regard to the size of the order and the complexity of the manuscript and the printing process. Nevertheless the estimate was already of such a size that extending the scale of the operation could hardly influence the choice of firm; this was governed by the capacity of their technical equipment and their method of calculating prices.

On the other hand, when it was possible for the scale of the operation to be correctly decided in 1977, the ACPC thought that, if new tenders were called for, the state of the market would not necessarily mean improved terms, whereas if the order were started immediately, a very large slice of the work would be done in the period when the printers were bound by the conditions of their tender without the price-revision clause operating. This circumstance, coupled with the possibility of reducing the unit cost still further by using certain techniques (smaller typeface, reproduction of certain texts rather than resetting, etc.), persuaded the institutions involved to go ahead in the knowledge that they would be carrying out the operation under the most favourable financial conditions.

In the light of these replies, the Commission takes the view that these cannot be considered 'serious cases'. For a long time the Commission has wished that, as the Court of Auditors recommends, 'common procedures and common principles should be applied' to all the institutions where administrative expenditure is concerned.

Weakness of control over use

Telephone calls — General

9.11. Telecommunication costs, charged to Item 2311 of the budget, have amounted in the last three financial years to:

Table 34

	(in u.a.)		
	1975	1976	1977
Parliament	276 456	241 637	397 226
Council	387 041	481 000	569 572
Commission	2 984 595	3 574 585	3 813 074
Court of Justice	28 949	32 004	39 878
Economic and Social Committee	27 601	32 947	38 687
Total	3 704 642	4 362 173	4 858 437

These figures include not only rates and call charges (telephone, telegram and telex) but also — in particular as regards the Commission — repair costs, maintenance, changes in installations, rental charges, purchases of equipment etc. (paragraph 9.5). Other similar costs relating to telecommunications have been charged to Articles 222 'Technical equipment and installations' and 214 'Fitting-out of premises'. Apart from these rates and call charges being always

charged to Item 2311, the distinction between expenditure charged to this item and that charged to other budget items is neither clear nor uniform in the different institutions.

9.12 The following table shows for the last three financial years the Item 2311 expenditure per head of staff ⁽¹⁾ expressed in u.a.

Table 35

	(in u.a.)		
	1975	1976	1977
Parliament	194	154	248
Council	275	338	391
Commission	364	422	435
Court of Justice	116	125	146
Economic and Social Committee	91	107	121

The significant differences in this table may be explained in various ways, e.g. the spread of costs between years, the nature of work, location, budgetary imputations etc. Even after making allowance for these differences, however, it seems to the Court highly probable that the issue of instructions as to the proper use of telephones in the institutions could lead to economies in this head of expenditure.

Telephone calls — Private

9.13 Telephones installed in the institutions' premises normally give free access only to local calls,

though officials located in Luxembourg may dial all of the Grand Duchy of Luxembourg directly. Except for open lines with international dialling facilities, long-distance and other non-local calls must be made through the switchboard. Telephones may be used for local calls but when an official makes a non-local or international call through the switchboard, he is normally required to say whether it is for official or private purposes.

The cost of private calls is then recovered from him.

⁽¹⁾ As employed at the end of each year.

9.14 The Court of Auditors asked each institution for the following information:

- the number of open lines, and the official's function;
- measures taken to control the access to these lines by unauthorized people;
- ways of controlling the non-authorized use and the frequency of control;
- the results of control methods.

The following information was received:

Number of telephones with international and other non-local dialling facilities:

- Parliament: 45 (25 in Luxembourg, 6 in Brussels, 2 in Strasbourg, 12 in press and information offices).

In addition, during sessions held in Luxembourg and Strasbourg, members of the European Parliament have access to six telephone booths reserved for their exclusive use. More lines are available for telecopiers.

- Council: 76.
- Commission: 285 — services located in Brussels, 27 — services located in Luxembourg.

Additionally:

- (a) 32 special lines are also available during the sessions of the Council of Ministers and the Parliament in Luxembourg;
- (b) 5 telephones are available during congresses held in the Nouveau Théâtre, Luxembourg;
- (c) 10 lines are used for telecopiers, computers and dispatching.
- Court of Justice: 15.
- Economic and Social Committee: 8.

9.15 Open lines are normally made available to the presidents and members of the institutions, to

their cabinets, to officials of grades A 1 and A 2 and to a small number of grade A 3, to the assistants to the Directors-General and to a few other officials with special tasks. As regards its press and information offices, Parliament allows the head of the appropriate division in the capital to decide who should have free access to an open line.

The following controls exist to avoid abuse:

At the *Commission* (Brussels and Luxembourg) and *Parliament*, telephones with open lines should be padlocked during the absence of the officers responsible for them.

The telephone booths reserved for the members of Parliament are unlocked 30 minutes before the opening and locked 30 minutes after the closing of a session. This is done by a central control system.

These institutions consider that there is no possibility of controlling the non-authorized use of their open lines.

At the *Court of Justice* calls on open lines pass through the switchboard. The operators are instructed from time to time to monitor the traffic. Communications for private purposes require reimbursement.

At the *Economic and Social Committee* and the *Council*, no special measures have been taken to control the use of open telephone lines. The Committee affirms that it is possible to check the use of telephones either on the basis of detailed statements provided with the telephone bills or — when a call is made outside office hours — by scrutiny of the list of people present on the premises. The Council on the other hand examines the bills only to detect any gross changes of use; it is, however, considering installing a new telephone system in some two years' time and would build further controls into this.

9.16 It is the Court's opinion that the non-authorized use of telephones with international dialling facilities can involve expenditure for the Communities of a relatively important magnitude. The Court recommends that the instructions for the economic use of telephones with are suggested in paragraph 9.12 should include clear directives on authorized use, and should be the subject of frequent reminders. Consideration should also be given to

whether spot checks to monitor the traffic on open lines would be appropriate at all the institutions.

Reply of the Commission

The Commission does not take the view that it is in the institution's best interests to attempt to cut telephone bills systematically. Better equipment (with conference-call facilities, for instance) would improve communication and relations between people in separate places of work and would enable travel costs to be cut and considerable time to be saved.

Concerning control over possible misuse, the Commission takes the view that current measures are sufficient to keep the risk acceptably low.

Reply of the Council

9.11 In the Council's case only rates, call charges and telegram and telex costs are charged to Item 2311.

Repair and maintenance costs, etc. are charged to other budget headings.

9.12 With regard to the average expenditure per Council employee over the last three financial years, it should be pointed out that telex costs alone accounted for 31 % of the total figure charged to Item 2311, while 20 % of telephone expenditure is for calls made on direct lines allocated to delegations.

The average cost per Council employee is therefore considerably lower than that shown in Table 35.

However, in response to this comment by the Court of Auditors the Council will draw the attention of its internal departments and of delegations to the need for rational use of the Council Secretariat's telephone system.

9.13 to 9.16. Telephone calls — private. It should be noted that of the 76 telephones cleared for international and non-local calls (point 9.14 of the comments) 19 are allocated to the Permanent Representations of the Member States, 2 to the Commission and 2 to the ACP Secretariat.

It is the Council's view that surveillance of access to these telephones could give rise to political problems. It none the less intends to instruct a working party to investigate technically feasible and politically acceptable means of surveillance. It will in any event draw the attention of its departments and of delegations to the Court's comment.

Reply of the Parliament

To ensure rational and supervised use of its telephones, Parliament has for a long time been applying effective economy measures as is shown in Table 35. It should be noted that:

- open lines have been allocated on a strictly limited basis and are locked outside office hours;*
- lines reserved for Members of Parliament are opened only 30 minutes before and after each sitting and remain under the supervision of ushers at those times.*

Reply of the Economic and Social Committee

The ESC has gone to some lengths to prevent abuse of the telephone system, as is amply illustrated by Table 35.

We would nevertheless point out that telex charges account for 5.8 % of Item 2311, and that apart from staff, the 144 ESC members also use the Committee's telephone system. This expenditure, moreover, relates solely to official calls since the cost of personal trunk and international calls is recouped from Committee members, staff and visitors (10 787 u.a. in 1977).

Point 9.15. The Committee immediately took the necessary steps and open lines were fitted with security systems.

Comment of the Court of Auditors

The Court will continue to watch developments in the use of telephones in the Communities.

Study contracts

9.17 Study work is undertaken for the Communities by various independent experts and specialist institutes. Contracts specifying the subject and duration of the study, together with payment terms are drawn up by the institutions.

9.18 An Advisory Committee on Studies was established by the Commission's decision of 26 June 1974 (Doc. PV. 301). Each study contract includes certain standard conditions, and the Committee reviews in every case the reasons for entering into each contract and any special terms applying. Payments for study contracts amounting to 11.1 million u.a. were made in 1977 under Chapter 26. Of this, 11 million u.a. arising from some 900 separate contracts placed with about 600 different contractors, was chargeable to the Commission.

9.19 The Court examined some of these contracts and in nearly every case the contract set out the dates by which the draft report on the studies and the final report should be produced. Payment instalments were linked to the date of signature of the contract, the production of the draft report, and that of the final report, leaving a balance for payment when the institution formally agreed and accepted the report. The standard conditions require the institution to comment on each report within two months of receipt.

9.20 The examination showed that:

- (i) commitments were sometimes entered when the institution sent the contract to the contractor for signature rather than on his signing;
- (ii) some contracts were signed several months after the work was supposed to have commenced;
- (iii) the contract date for completion of the final report had passed before any endorsement extending the period was signed;
- (iv) agreement of final reports (as recorded by their transmission to the official archives of the institution) has been as much as 14 months after the contractual date of production, and is in a large proportion of cases over 6 months late. Reasons for these delays have not been given;

- (v) no common practice exists as to the size of the payment instalments. Thus the payments on signature vary from 15 % of the total contract cost to 80 %; similarly the final instalments on acceptance of the final report vary from 10 % to 70 %. The number of instalments can vary from 2 to 5.

9.21 When placing study contracts, the institutions should have regard both to cost effectiveness and to the possibilities of obtaining recourse to competitive offers as in the case of other procurement contracts. With some specialisms this might be impracticable, but in many cases the Court was unable to find any evidence of careful evaluation of the reasonableness of the amounts involved. Nor did the institutions estimate before embarking on a study what a reasonable cost might be.

9.22 In one study contract the same survey tasks were commissioned in eight countries. Costs in seven countries were within a range of 15.03 u.a. to 19.62 u.a. per interview, but in the eighth country came to 26.67 u.a. The total cost of the contracts amounted to 264 198 u.a. The Statistical Office of the European Communities stated that for this task it had taken the advice of the various national statistical institutes as to whether the contracts should be placed with them or with semi-private or private bodies. In these circumstances the Office had considered it inappropriate to think in terms of a standard fee or in units of account; it had negotiated a separate rate with each contractor, aiming at agreements close to 15 u.a. per interview. The highest rate, charged by the Danish Social-forskninginstitut, had been supported by detailed costs, and the Office had decided to accept it rather than seek alternative offers from independent bodies. The Court emphasizes that due regard should be paid to the normal principles of seeking competitive offers wherever it might be possible to approach several reasonable sources.

Reply of the Commission

Under Article 33 of the Financial Regulation, the Financial Controller's approval must be obtained and the appropriations committed before any measure which gives rise to expenditure from the budget can be undertaken, i.e. before legal commitment occurs. If the Commission signs a contract which constitutes such a commitment, the appropriations themselves must be committed before the contract is signed by the contractor.

The nature of the services supplied under study contracts and the desire for quality in the studies themselves make it difficult to impose penalties for delay on contractors.

The Statistical Office chose the Danish organization which, in its view, had a high reputation and the necessary resources; the fee which the Statistical Office was charged corresponds to what the same organization charges the Danish authorities.

The delay in lodging the final reports with the institution's archives was exceptional, being due to the finalizing of these reports jointly by the institution and the contractors.

The deposit paid when the contract is signed is limited to a maximum of 30 %; any excess is an exception warranted where investments are required at the start of the study.

The Commission is well aware of the need to put potential contractors into competition. But in many cases the specificity of the study precludes competition.

Reply of the Council

The Council has concluded study contracts with an architect's office (43 392 u.a.) and a technical bureau (14 932 u.a.).

In the case of certain work prior contact had to be made with these organizations before commitment to the expenditure on account of the scale of the problems to be studied.

The Council would like the Court, together with the two budget authority bodies, to seek the most effective means of ensuring that these comments on study contracts are taken into account and followed in practice.

Reply of the Economic and Social Committee

Particular note has been taken of the Court of Auditors' comments on study contracts. The Committee is not often obliged to commission studies by independent experts, but when it is, it is concerned to comply with the rules applicable in such cases.

GENERAL COMMENT OF THE COURT OF AUDITORS

9.23 The Court, in drawing attention to the matters in paragraphs 9.1 to 9.22 above, is well aware that in several respects these repeat criticisms of principle made by its predecessors in their reports. It regrets that it should be necessary to so repeat earlier criticisms and will be examining with the budgetary authorities of the institutions how best its observations may be considered and acted upon.

9.24 The Court intends that while its examinations of the administrative expenditures covered by Title 2 of the budget will be related in future primarily to the operations of each institution in turn, its experiences should enable it to make constructive comparisons between institutions. The Court hopes that its experiences could contribute to the development of greater understanding and uniformity in the application of common operations and principles. It observes that the matters noted in paragraphs 9.3 to 9.8 above particularly could benefit from such exchanges, and suggests that these comments be considered jointly by the institutions.

9.25 The cases noted in paragraphs 9.9 and 9.10 above are, in the Court's view, equally serious as they represent obvious failings of both the budgetary and financial control systems to restrain expenditure. In the absence either of sufficient specification of needs or of accurate costing at the stage of entering into commitments, the Court is of the opinion that sound financial management cannot be operating. It trusts that future tendering procedures will be based on proper and fully competitive pre-pricing.

9.26 The Court emphasizes that control must continue once items have been purchased or installed. The aspects raised in paragraphs 9.11 to 9.22 appear to need further attention throughout the institutions, and the Court will be paying particular attention to the evidence available of the proper and economic use of property and facilities. It requests that the particular matters noted in these paragraphs be considered carefully in the institutions' replies.

Reply of the Parliament

Parliament proposes to take the fullest possible account of the remarks made and, with that end

in view, will ask — through its representative on the Committee of Heads of Administration — for a detailed joint examination of all the observations.

Reply of the Court of Justice

The Court of Justice has no fundamental observations to make. It has taken good note of the suggestion in paragraph 9.24 of the Audit Report that the institutions consider jointly the various comments made. It proposes to make the

problems of buying and use of equipment the particular object of consultations between the interested services and will be having discussions with the other administrations with a view towards achieving a greater uniformity in the execution of budgetary transactions.

The Court of Justice underlines that certain parts of the Financial Regulation — though followed in spirit and in the letter — do present practical difficulties to an institution of its size, particularly in respect of the need to provide for a separation of duties and operations from amongst its limited staff numbers.

Chapter 10 — Summaries of reports on external bodies

10.1 Under the Amending Treaty of 22 July 1975, the Court is charged with the audit of the accounts of all bodies set up by the Communities in so far as the relevant constituent instrument does not preclude such audit. In pursuance of this directive, the Court has examined the accounts presented by:

- The Euratom Supply Agency;
- The European Schools;
- The European Foundation for the Improvement of Living and Working Conditions (Dublin); and
- The European Centre for the Development of Vocational Training (Berlin).

10.2 The Court sent its draft observations to each of these bodies and took their replies into account in drawing up its final reports which have been sent to the respective governing authorities and, except for the Schools ⁽¹⁾, to the Commission, which is concerned with granting a discharge. However, the Court considers it useful to include in the present report a short summary of each of these reports.

EURATOM SUPPLY AGENCY

Observations

10.3 The Report drew attention to certain shortcomings in the accounting systems relating to

the Agency (e.g. some bank accounts are being operated on a single signature). These matters are receiving the Agency's attention. The Report noted that the Agency's capital is in excess of that required for the functions which it performs.

EUROPEAN SCHOOLS

10.4 This summary report dealt with the 1976 accounts of the Luxembourg, Brussels I, Mol, Varese, Karlsruhe and Bergen Schools and of the Board of Governors. For future years it is the Court's intention to reduce the interval between the production of accounts and the completion of the audit report on the Schools.

Observations

10.5 There is no provision in the Financial Regulation of the Schools for the office of financial controller. A number of defects were noted by the Court in the course of the audit, particularly in the Brussels I, Bergen and Karlsruhe Schools (e.g. as regards the calculation of mission expenses, the use of inappropriate exchange rates and the level of entertainment expenses). These would not have arisen had there been satisfactory internal control.

10.6 Staff costs totalled BFR 1 065 184 315 and accounted for 91 % of the Schools' budget. The Court endorsed the critical comments made by the Audit Board in previous years in relation to the salary system, which is intended to ensure equality of treatment of teachers (who are seconded from

⁽¹⁾ For the European Schools the Board of Governors gives discharge to the Administrative Board of each school.

national education departments) by topping up national salaries to a common level. In practice, the arrangements are unduly complex, have given rise to lack of uniformity in their administration and can give rise to inequities in the treatment of teachers at comparable levels from different countries. The Court will pay particular attention to this matter in future audits of the Schools.

EUROPEAN FOUNDATION FOR THE IMPROVEMENT OF LIVING AND WORKING CONDITIONS (1977 ACCOUNTS)

Observations

10.7 A number of weaknesses were noted in the accounting system, e.g. no journal or chronological voucher record is kept and references linking payment orders to actual records of payment were

often inadequate. There were also some defects in financial management (e.g. in the handling of an imprest account). In the light of the funds at the disposal of the Foundation at year end the Court had occasion to observe that the Commission appeared to be making funds available to it more rapidly than was required.

EUROPEAN CENTRE FOR THE DEVELOPMENT OF VOCATIONAL TRAINING, BERLIN (1977 ACCOUNTS)

Observations

10.8 Some shortcomings in the financial management of the Centre were noted (e.g. in the establishment of recovery orders for VAT) and in the accounting system (no proper journal or chronological voucher record exists and inventory numbers do not appear on payment orders for equipment).

Chapter 11 — The general accounts

INTRODUCTION

11.1 In accordance with the implementing measures of the Financial Regulation of 25 April 1973 the institutions are required to keep budget accounts and general accounts⁽¹⁾. The latter are sometimes referred to as 'ex budget accounts', which in itself is a misleading description. The purpose of the general accounts is to allow the assets and liabilities of each institution to be ascertained⁽¹⁾. The general accounts should therefore provide a summary of the financial situation of each institution individually and after aggregation should show in one balance sheet the assets and liabilities of the Communities as a whole, as required by the Financial Regulation⁽²⁾.

11.2 The audit of the general accounts comprises principally an examination of the methods of recording and presenting financial information. It also includes the audit of cash and bank balances held by the institutions and other Community bodies. The main audit work is directed towards verifying the safeguarding and sound management of cash

resources, reviewing the system of internal control to ensure the accuracy and reliability of financial data and examining the aggregation of the assets and liabilities of the institutions for presentation in the balance sheet.

OBSERVATIONS ON INTERNAL CONTROL AND PRESENTATION OF FINANCIAL STATEMENTS

11.3 To ensure that accounting data is processed completely and accurately it is essential that a sound system of internal control should be operated on all levels in the organization. Since the reliability of accounting data is dependent on the efficacy of this entire system of control, the Court of Auditors, in conjunction with the accounting services of the Commission, has already commenced a full review of the Commission's accounting systems and procedures, with particular emphasis on the measures of internal control interwoven in these systems and procedures. Since this review has not yet been completed at the time of editing this report, it is not possible for the Court of Auditors to present overall conclusions or definitive recommendations for improvement of the systems under study. However, at this interim stage of its investigations, the Court wishes to draw attention to the following serious weaknesses in internal control in the accounting

⁽¹⁾ OJ L 170 of 1. 7. 1975, p. 11.

⁽²⁾ OJ L 116 of 1. 5. 1973, p. 20.

systems of the Commission which have been noted during the course of the work to date:

- (i) There is no proper documentation recording either the accounting systems and procedures or the overall system of control for the general accounts. It is therefore difficult to establish the precise measures of control which are applied in processing documents through the system. The absence of documentation of this system of control hinders both internal and external control.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (i):

The Commission keeps its accounts in accordance with the provisions of its Regulation of 30 June 1975 on measures of implementation of certain provisions of the Financial Regulation of 25 April 1973. These provisions stipulate the keeping of budgetary accounts (recording for each subdivision of the budget the established entitlements and amounts collected for the financial year, and the commitments and payments for the financial year), and of general accounts enabling the institution's statement of assets and liabilities to be drawn up. This Regulation also demands the establishment of an accounting plan. All these provisions have been observed.

The Commission has also drawn up internal rules for the implementation of the general budget of the European Communities. These rules lay down the responsibilities of the various departments in budgetary matters; they are constantly supplemented by new delegations and subdelegations of powers and of signature. Similarly, special Regulations lay down the administrative methods and the procedures for certain categories of expenditure. This corpus of regulations and measures constitutes a firm documentary basis for the operation of the Commission departments, in particular of its accounts service. The Court of Auditors, which is acquainted with this, can obtain from this source all the information it requires for its audit.

The Commission's accounting service observes these provisions punctiliously. All revenue and expenditure is entered in the accounts in accordance with the various regulations and an

accounting plan which is updated every year. The accounts service also constantly analyses and clears accounts. The central accounts — embracing the budgetary accounts and general accounts — thus make it possible to draw up at any time a general balance of the accounts, and to establish, for each item or heading in the budget, the amount of commitments entered into, the payments made, the payments due, the appropriations blocked and the available appropriations.

Monitoring of the responsibility of the authorizing officers and accounting officers is carried out in accordance with the rules laid down in the Financial Regulation adopted by the Council.

With respect to the presentation of the accounts, the Commission refers to the general observations, particularly to the section concerning the 'accounting practices'.

Comment of the Court of Auditors

The nature of the controls to which the Commission refers is different from those about which the Court is concerned. The mere existence of an organizational structure set out in Regulations is not, of itself, sufficient guarantee that the actual accounting data is accurate and reliable. What the Court sought was information about the organizational, procedural and technical control measures concerning daily operations within the accounting department and this was not available at the time of its audit. As mentioned in paragraph 11.3 above, this information has now been drawn up.

Furthermore, it cannot be maintained that all provisions laid down in the implementing measures of 30 June 1975 are observed, as the Commission states, because for example accounts for stocks and fixed assets, prescribed in Article 76 of the quoted Act are in fact not operated. Thus it is not possible to ascertain the institutions' situation in respect of assets and liabilities on the basis of the general accounts. This is required in the Article quoted above which defines the purpose of the general accounts.

- (ii) Balances remaining at the end of the year on clearing accounts used for the transfer of funds from accounts maintained in the Member States to the Communities' bank accounts are not

always properly analysed when preparing financial statements. In 1977 this led to a significant error because cash transferred between two different bank accounts was incorrectly entered as a loss on exchange. This error has now been corrected in the published financial statements.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (iii):

The adjustment account which gave rise to this alleged error no longer exists. It is inaccurate to say that this account has not always been adequately analysed. The error in question was picked up when the monthly clearing of the account was carried out and was duly corrected.

Comment of the Court of Auditors

The Court regards this matter with more concern than the Commission appears to do. The error, which concerned an item of £10 000 000, was discovered by the Commission but was not corrected until the Court made the same discovery in the course of its audit as late as May 1978, and raised the question with the Commission. It is open to question whether a second version of 'Comptes de gestion et bilans financiers' Vol. II, which included the correction of this large item would have been published if the Court had not drawn attention to the matter.

The Court feels that this example points to a serious failure in the whole system of internal control, that this error, once detected, could remain uncorrected.

- (iii) Authorization and control procedures for making correcting entries are weak.
- (iv) Insufficient use is made of the possibility to make age-analyses of sundry debtor and creditor balances to permit old items to be investigated and treated appropriately.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (iv):

The 'old items' of which the Court of Auditors speaks are closely watched by the Commission. There are not many of them. For some of them the Commission is obliged to wait for information from the accounting departments of the Member States (old EAGGF balances). The Commission regularly carries out an analysis of the balances involved.

- (v) No formal reconciliations are made between complementary information produced by the accounting system and presented in the financial statements to ensure the accuracy of figures presented. For example, no reconciliation is carried out of cash and bank balances at the beginning and at the end of the year.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (v):

The Commission regularly and systematically reconciles bank accounting and bank statements.

Comment of the Court of Auditors

The reconciliation mentioned by the Commission in its reply is of a much more limited nature than the type of reconciliation set out by the Court in its observation. The Court maintains that reconciliation procedures applied by the Commission accounting services are insufficient in scope and nature.

- (vi) No physical checks of movable and immovable property, which are prescribed by Article 67 of the 1973 Financial Regulation, have been carried out for a considerable period of time.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (vi):

The Commission's departments regularly check that inventory lists agree with the facts in the following manner:

- *as regards furniture, when items are issued from stock;*
- *as regards office machines, when maintenance work is carried out;*
- *as regards technical equipment and groups of machines (for example, copying and printing shops, the radio and television studio of the Spokesman's Group and the Directorate-General for Information, the medical service, the restaurant, the press and information offices, the Commission delegations, etc.) by drawing up a card index of items administered and kept up to date by the user department and checked annually by the inventory department.*

This procedure was unofficially accepted by the Audit Board. The Commission therefore asks the Court of Auditors whether it believes the practices to be inappropriate.

Comment of the Court of Auditors

The Court points out that:

- The Commission by implication confirms that no inspection of furniture is made after issue from stock.
- Reliance on maintenance technicians in verifying assets is of limited value unless the precise extent of checking procedures which they are required to carry out is fully prescribed and monitored by the Commission.

At present, the Court feels the practices described are not adequate but intends to consider these matters fully in a subsequent report.

- (vii) The amounts of loans raised and granted, shown in Table 14 of the accounts of the Commission are stated on the basis of information received via the various Directorates-General of the Commission from other bodies without any check to ensure that the amounts are correctly stated.

Reply of the Commission

The Commission has made the following reply to paragraph 11.3 (vii):

The figures notified for inclusion in the annual accounts were checked beforehand by the competent Commission departments. The Court of Auditors is in a position to check this. It is therefore untrue to say that these figures were never checked.

Comment of the Court of Auditors

The Court reached its conclusion after checking with all the competent Commission departments involved for one whole class of loans.

Specific unadjusted errors

11.4 The following errors were noted in the course of sample tests carried out on the general accounts by the Court of Auditors. These items have not been adjusted in the published financial statements.

- (i) An exchange difference amounting to LIT 308 938 384 (494 301 u.a.), which was incurred in 1976, was charged as expenditure in 1977.

This exchange loss arose from a payment for the Joint Research Centre at Ispra in December 1976 of a bill in US dollars which was converted at the budget rate of exchange.

The difference between the budget rate of exchange and the market rate of exchange at which the payment, which was made in Italian lire, was converted by the bank, should have been charged as an exchange loss in 1976, the year in which the payment was made.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraph 11.4 (i):

The bank statement which accounts for the operation which caused an exchange loss of 494 301 u.a. arrived at the Commission after the closure of the bank accounts relating to the financial year 1976. For this reason the exchange difference could not be charged to the accounts for the financial year 1976.

- (ii) At 31 December 1977, BFR 46 500 000 (930 000 u.a.) which should have been charged as expenditure in 1977 was included in the balance sheet account number 45411 'Expenditure reimbursable to Ispra from the Commission'. The sum was thus wrongly charged to 1978.

The same account also included BFR 11 100 000 (220 000 u. a.) which should have been included in the bank balance at 31 December 1977 as cash in transit.

Reply of the Commission

The Commission has made the following reply to paragraph 11.4 (ii):

The sum of 930 000 u.a. which, according to the Court of Auditors, should have been charged as a 1977 expenditure was booked to the 1977 budget on appropriations carried over from 1977 to 1978. This sum was therefore not allocated in error to the 1978 budget. Although it did not figure in the bank balance on 31 December 1977, the amount of 220 000 u.a. quoted later influenced the balance of the liaison account between Brussels and Ispra and was thus indirectly included in the balance sheet.

Comment of the Court of Auditors

The Court of Auditors now agrees with the Commission that the amount has been brought into the 1977 budget via appropriations carried over. But this amount had not only been brought to budget in the manner described, but was also booked to the balance sheet account mentioned in the Court's observation. The Court maintains its view that the amount should be eliminated from the balance sheet.

The Court notes that the Commission's reply confirms that the amount of 220 000 u.a. was incorrectly classified in the balance sheet.

- (iii) An amount of BFR 17 829 520 is included in the balance sheet at 31 December 1977 as receivable

by the Commission from the Office for Official Publications. These expenses arose in connection with printing the Official Journal, had been paid by the Commission, and at year end were awaiting internal clearance to the bank account of the Office for Official Publications before being charged to the budget accounts. Reimbursement of this amount was made by the Office for Official Publications to the Commission in January 1978. In accordance with the Financial Regulation of 1973 ⁽¹⁾ all such outstanding amounts should have been settled by the end of the year. This amount should have been included in budget expenditure of the institutions for 1977 but will now be charged in 1978.

Reply of the Commission

The Commission has made the following reply to paragraph 11.4 (iii):

The observation concerning a recovery in respect of the Office for Official Publications is unfounded. For practical cash reasons, the Commission settles the Official Journal printing bills and the Office reimburses the Commission without delay. Periodically, the Office establishes a breakdown of Official Journal printing expenses as between the institutions.

The sum referred to by the Court of Auditors represents a bank transaction which has no budgetary implications.

Comment of the Court of Auditors

The Court maintains its view that the provision of the Financial Regulation quoted was not complied with, since the balance sheet shows an unsettled amount which, according to this provision, should have been settled.

⁽¹⁾ Annex I, Article 6: OJ L 116 of 1. 5. 1973, p. 29.

Chapter 12 — Revenue

INTRODUCTION

Financing the budget

12.1 The Council Decision of 21 April 1970 laid down the general rules for financing the budget of the European Communities. The intention was that as from 1 January 1975 the budget would be financed entirely from the Communities' own resources, i.e. certain specified levies, duties and taxes collected by the authorities of the Member States which constitute Community revenue.

12.2 The Decision, supplemented by the financial provisions of the Treaty of Accession, also provided that up to and including 1977 the overall contribution made by each Member State to the financing of the budget would be limited by reference to its relative share for the year in question. The relative shares are determined for each year in accordance with the rules laid down in the Decision as supplemented by the financial provisions of the Treaty of Accession.

The own resources system

12.3 The 1970 Decision provided that as from 1 January 1971 own resources would consist of:

- (a) Agricultural levies: i.e. levies, premiums, additional or compensatory amounts, additional amounts or factors and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries within the framework of the common agricultural policy, and also contributions and other duties provided for within the framework of the organization of the market in sugar; and
- (b) Customs duties: i.e. Common Customs Tariff duties and other duties established or to be established by the institutions of the Communities in respect of trade with non-member countries.

12.4 It was recognized, however, that agricultural levies and customs duties would by themselves be insufficient to finance all expenditure under the budget. The Decision, therefore, went on to provide that any shortfall between the yield of these levies and duties and actual expenditure would be covered by a third type of own resource, namely, value added tax.

12.5 Value added tax resources were to be derived from the application of a rate not exceeding 1 % to a basis of assessment to be determined in a uniform manner for the Member States according to Community rules. 1 January 1975 was chosen as the implementation date for the full own resources system.

Financial contributions

12.6 Article 3 (2) of the Decision provided that up to 31 December 1974 the balance of expenditure not covered by agricultural levies and customs duties was to be made up by financial contributions from the Member States paid in accordance with a scale set out in the Article.

Developments since the adoption of the own resources Decision

12.7 The deadline of 1 January 1975 for the implementation of full own resources was not met. It was only during 1977 that the adoption of the Sixth Directive on the harmonization of the laws of the Member States relating to turnover taxes and of the necessary implementing regulation cleared the way for VAT to be levied as an own resource. The fact that a majority of Member States could not take the necessary implementing measures in time means that VAT will not be included in own resources until 1 January 1979 at the earliest. Consequently, in 1977 and again in 1978 the budget continues to be financed by a mixture of levies, duties and financial contributions. Furthermore, the accession of Denmark, Ireland and the United Kingdom to the Communities involved the setting up of additional rules governing the share of each Member State in the financing of the budget.

Accounting for own resources and financial contributions

12.8 Up to the end of 1977 the rules governing the accounting and handing over of own resources and the payment of contributions to the Community by the Member States were those based on Regulation No 2/71 or contained in the general Financial Regulation of 25 April 1973. Each month the Commission calculated its cash needs and called on each Member State to supply its share of those needs in accordance

with its relative share as laid down in the budget. The Member State met that share first out of the own resources handed over in that month and paid the difference (if any) as a financial contribution.

12.9 Article 108 of the Financial Regulation of 21 December 1977 provides that when the accounts for the financial year 1977 are closed, the Commission shall draw up a statement of the sums paid, comparing the sums actually paid by the Member States with those due to have been paid under the statements of revenue and expenditure for the financial years in question. This is to be followed by an adjustment of the difference shown in the statement. The statement is set out on page 142 of the accounts (Volume II) and the corresponding adjustment has been carried out.

COMMENTS ON THE 1977 ACCOUNTS

Calculation of the amount to be financed and allocation between Member States based on relative shares

12.10 The net amount to be financed by the Member States for 1977, calculated in accordance

with Article 17 of Regulation 2/71 amounts to 8 200 million u.a. This amount is stated after deduction of the following items:

	(in million u.a.)	
Surplus brought forward from 1976		40
Other income:		
— Gains on exchange	135	
— Other	108	243
		<u>283</u>

12.11 A summary of the relative share of the budget contributed by each Member State in 1976 and in 1977 is shown in Table 36.

A detailed breakdown of the amount of own resources and financial contributions for 1977 contributed by each Member State is shown in Table 37.

Further details of revenue of the Communities are given in Annex I to this Report.

Table 36 — Member States' relative shares in the budget

	Actual 1976 (thousand u.a.)	Budget 1977 (thousand u.a.)	Actual 1977 (thousand u.a.)	Relative shares		
				Actual 1976 (%)	Budget 1977 (%)	Actual 1977 (%)
Belgium	497 993	574 724	517 539	6.5	6.1	6.3
Denmark	159 202	217 865	193 041	2.1	2.3	2.4
FR of Germany	2 107 769	2 474 345	2 118 915	27.4	26.3	25.8
France	1 652 213	1 902 304	1 661 410	21.4	20.1	20.3
Ireland	39 461	57 354	49 800	0.5	0.6	0.6
Italy	1 316 629	1 577 793	1 368 293	17.0	16.7	16.7
Luxembourg	11 850	13 645	11 915	0.1	0.1	0.1
Netherlands	674 973	808 860	701 453	8.8	8.6	8.6
United Kingdom	1 250 255	1 817 169	1 577 833	16.2	19.2	19.2
Total	7 710 345	9 444 059	8 200 199	100.0	100.0	100.0

Table 37 — Detailed breakdown of own resources and financial contributions

	Own resources (thousand u.a.)	Contributions (thousand u.a.)	Total (thousand u.a.)	Relative share (%)
<i>Budget 1977</i>				
Belgium	408 000	166 724	574 724	6.0856
Denmark	134 320	83 545	217 865	2.3069
FR of Germany	1 324 000	1 150 345	2 474 345	26.2000
France	773 600	1 128 704	1 902 304	20.1429
Ireland	57 354	—	57 354	0.6073
Italy	1 137 600	440 193	1 577 793	16.7067
Luxembourg	3 600	10 045	13 645	0.1445
Netherlands	639 500	169 360	808 860	8.5647
United Kingdom	1 817 169	—	1 817 169	19.2414
Total	6 295 143	3 148 916	9 444 059	100.0000
<i>Actual 1977</i>				
Belgium	400 645	116 894	517 539	6.3113
Denmark	120 690	72 351	193 041	2.3541
FR of Germany	1 090 726	1 028 189	2 118 915	25.8398
France	707 340	954 070	1 661 410	20.2606
Ireland	49 800	—	49 800	0.6073
Italy	1 191 520	176 773	1 368 293	16.6861
Luxembourg	2 640	9 275	11 915	0.1453
Netherlands	564 510	136 943	701 453	8.5541
United Kingdom	1 577 833	—	1 577 833	19.2414
Total	5 705 704	2 494 495	8 200 199	100.0000

12.12 The amount to be financed in 1977 is 1 244 million u.a. (13.2 %) less than the total expenditure provided for in the budget. This is principally as a result of appropriations cancelled. Of this total 415 million u.a. relate to appropriations carried forward from 1976 and the balance to appropriations of 1977.

Own resources

12.13 In accordance with the transitional arrangements set out in Article 108 of the Financial Regulation of 21 December 1977, whereby own resources are to be stated from 1 January 1978 on a cash basis, own resources included as income for the Communities in 1977 represent receipts for the ten

months of January to October 1977. Own resources in respect of November and December 1977, which were made available in January and February 1978 are to be accounted for in 1978.

12.14 Although only 10 months' own resources were entered into the accounts for 1977, the total of 5 706 million u. a. represents 90.6 % of the budget estimates for 12 months and an increase of 9.1 % compared to the own resources established for the twelve months of 1976. The distribution between Member States of the amount required to finance the budget of the Communities was still governed in 1977 by relative shares, calculated in accordance with the Decision of 21 April 1970 and the Treaty of Accession. Since the relative share of each Member

State is met firstly from own resources, the balance, if any, being paid up as a financial contribution, the inclusion of own resources for only 10 months in the 1977 accounts does not affect the total of the relative share due from each Member State. Since the total of own resources produced in Ireland and the United Kingdom was sufficient to meet the relative shares due from these Member States, no financial contributions were required from them. Financial contributions were made by all the other Member States, however, and the amounts required were correspondingly higher than they would have been if own resources for November and December 1977 had been recorded as income of 1977.

OBSERVATIONS

Unilateral exemptions from customs duties by Member States

12.15 That part of own resources which relates to customs duties arising from trade with third countries rests on the Common Customs Tariff. If one Member State does not respect the tariff by exempting or applying a lower rate to a particular form of goods, whether it does so under its own national law or by administrative practice, there will normally be a reduction in the amount of own resources and (up to 1977 at any rate) a corresponding increase in financial contributions where applicable.

12.16 Exemptions of this kind have been given, for example, by the United Kingdom (navigational buoys), Italy (on material for nuclear reactors, and on transport and communications equipment imported by the Guardia di Finanza), and Ireland (medicines, umbrella fabrics and material used in the production and transportation of beer). These variations are at present the subjects of correspondence between these countries and the Commission. The Court of Auditors thinks that it is important that the spirit and the letter of the Common Customs Tariff should be preserved and would support the Commission's activities to that end. Because the overall contributions of Member States were still governed in 1977 by relative shares, none of these exemptions resulted in loss of income for the Community. The relative shares of Ireland and the United Kingdom were fully met from the own resources they produced. Any reduction in own resources due from Italy was compensated by a corresponding increase in financial contributions.

12.17 An even more important problem in the same field is the exemption from customs duty given by some Member States when importing material for their national armed forces from third countries. The distinction between this case and the exemptions referred to in the previous paragraph is that the Member States concerned invoke Article 223 (1) (b) of the Treaty (protection of Member States' security) as entitling them to make such unilateral exemptions. The Commission has written to the Member States questioning this interpretation. The effect of such exemptions could be considerable and from 1978 (given the abolition of relative shares) could have a serious impact on revenue accruing to the Community budget in the various Member States. The Court of Auditors is of the opinion that as a first step the shortfall in customs duties reaching the Commission as own resources due to the exemption of defence material should be quantified.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 12.15 to 12.17:

Article 28 of the EEC Treaty states that any autonomous alteration or suspension of duties in the Common Customs Tariff must be decided unanimously by the Council.

In answer to the Commission's queries the Irish and United Kingdom Governments stated that they have ceased to apply these exemptions or have taken the necessary steps to end them.

The Italian Government has not yet, however, replied to the Commission's request that these unilateral exemptions be discontinued and another letter will be sent to the Italian Government shortly. If no satisfactory reply is received, the Commission will consider whether it is necessary to initiate eventually the infringement procedure laid down in Article 169 of the EEC Treaty.

Having sent two letters to the Member States setting out its position on its interpretation of subparagraph (b) of Article 223 (1) of the EEC Treaty with regard to exemptions from customs duty for imports of military equipment, the Commission is now holding discussions with representatives of the Member States to clarify the legal position and to ensure that Community law is strictly observed.

Fines and penalties

12.18 The collection of taxes in the Member States can sometimes give rise to the receipt of sums over and above the taxes themselves. These additional sums may take various forms, but, in the main, they will be related to one or other of two kinds:

- (i) Fines or penalties imposed by the administration of the Member State or by its Courts because the taxpayer has committed some fraud or irregularity, e.g. in failing to give the authorities information about his liability which the law called upon him to give,
- (ii) Arrears interest payable by the taxpayer.

12.19 There is no Community legislation requiring Member States to pay to the Commission any such additional sums received by them relating to taxes which form part of own resources. Article 9 of Regulation 2/71 laid down, however, that a Member State which is itself late in remitting own resources due should pay interest in respect of the delay.

12.20 There is, in the opinion of the Court of Auditors, a case for arguing that the fines or penalties described under (i) of paragraph 12.18 should properly be regarded as own resources and that the Decision of 21 April 1970 should be amended to this effect. If the duty which was evaded by the fraud or irregularity should have reached the Community, then the penalty imposed for not paying it should equally be part of the own resources total since in many instances it would simply be taking the place of the duty. However, there are a number of practical reasons why it seems premature to suggest an amendment to the Decision. In the first place, the rate and incidence of penalties is not uniform under the laws of the Member States. Unless some consistency could be secured in this field, the effect on own resources would differ from one Member State to another. In the second place, the composition of the penalties differs. In one Member State it may include some element of interest because the duty is collected in arrears; in another, the interest is distinguishable and may be separately collected.

12.21 Because of this lack of uniformity, the Court is therefore of the opinion that, whatever the theoretical justification for the suggestion that such penalties should be own resources, the position should remain unchanged for the time being. The

Court proposes, however, to study the law and practice on penalties for fiscal fraud as they operate in the different Member States and may return to this topic in a future report.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 12.21:

The Commission is interested in the study proposed by the Court of Auditors on the law and practice on penalties for fiscal fraud as they operate in different Member States.

12.22 The Court agrees that there is no case for treating the interest discussed in paragraph 12.18 (ii) as own resources. The distinction between such amounts and those discussed in paragraphs 12.20 and 12.21 is that the former arise from duties which have been assessed by the Member State, or otherwise established. Since credit of own resources should be made in respect of established sums, there should be no delay in these reaching the Community. Delay in payment by the taxpayer is a cause of loss to the Member State, not to the Community. It is therefore right that, in these cases, the Member State should retain any compensatory amounts paid as interest.

Irregularities and fraud

12.23 Irregularities and fraud in respect of levies and customs duties result in loss to the Community of income from own resources. To assist Member States and the Commission in coordinating their control of own resources, the Court of Auditors recommends that the Commission should discuss with Member States ways and means of facilitating the exchange of information and reciprocal help to improve control of own resources within the Community. A similar system of information is already operated by the EAGGF Irregularities Group.

Reply of the Commission

The Commission has made the following reply to the observation made by the Court in paragraph 12.23:

The Commission agrees with the Court of Auditors on the need to improve control of own resources by facilitating the exchange of information and reciprocal assistance in this area. The Commission will take this into account when presenting the Council with its proposal for a regulation on irregularities in respect of own resources.

Rebates on customs duties granted to the Danish shipbuilding industry

12.24 Under Danish customs regulations rebates of duty are granted for goods used for the building, converting, maintaining and repairing of certain ships mentioned under tariff headings 89.01-03. The amount of rebates granted, which in the period January to October 1977 amounted to DKR 48 834 000 (6 511 000 u. a.) is deducted from customs duties made available to the Community as own resources.

12.25 The amount of rebate may be calculated either as a percentage, ranging from 3 to 4.25 % of the cost of construction of the ship, or, if the yard is building the ship for its own use, on the basis of duty actually paid and by a special formula for goods of Danish origin. Rebates granted can be higher than duty actually paid on construction materials, particularly since special provisions provide for reductions below normal rates of duty for certain items and rebates are available for goods of Danish origin on which no duty is payable. The scheme therefore has the character of a subsidy to the Danish shipbuilding industry.

12.26 The rebate scheme is being abolished by the Danish Government and no payments will be made in respect of vessels for which construction commenced after 1 July 1977.

12.27 1977 was the last year during which the overall contributions of all Member States were limited by reference to relative shares in the Community budget. Under these arrangements any reduction in the Community's own resources resulting from rebates granted by Denmark would be compensated for by a corresponding increase in

Denmark's financial contribution to the Community. In 1978 any rebates granted in respect of ships commenced prior to 1 July 1977 may represent a reduction in own resources due to the Communities because it is unlikely that the total own resources arising in Denmark will be affected by the application of Article 131 of the Act of Accession.

Reply of the Commission

The Commission has made the following reply to the observations made by the Court in paragraphs 12.24 to 12.27:

As the Court of Auditors points out, the rebate scheme for the Danish shipbuilding industry is being abolished. It has been completely abolished for ships commenced since 1 July 1977. The rebate will be granted for ships commenced no later than 30 June 1977.

As regards goods for use in the construction, repair, maintenance or conversion of the ships listed in the Table in paragraph A of Section II (Special provisions) of the Common Customs Tariff and goods imported or used for fitting out or equipping such vessels commenced before 1 July 1977, only those customs duties which were actually paid will be reimbursed in accordance with the provisions of the Common Customs Tariff referred to above.

The Commission would point out that Article 131 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties provides for a limited increase in the relative share to be paid by each new Member State under the head of own resources and of the financial contributions for 1978 and 1979. In view of this, the reduction of own resources mentioned by the Court of Auditors would have no effect if Denmark exceeded the stated limit. It will be necessary to wait until the accounts are closed to see if this will be the case.

Compensation scheme for sugar storage costs

12.28 The Community scheme for sugar storage costs is based on Council Regulation 3330/74, which provides for reimbursement of storage costs to be financed by levies charged to manufacturers. Levies are accounted for as own resources and reimbursements are included as appropriations of the EAGGF.

The rate of levy is based on advance estimates of anticipated market trends in each sugar campaign, running from 1 July to 30 June, and is intended to raise sufficient finance to meet reimbursements arising in that period.

12.29 Since the financial year for each sugar campaign ends in June and the accounts of the Commission are produced to December each year, it is not possible to determine from the published accounts the financial results of the scheme for any campaign. The Commission is not obliged to publish this information, without which a proper assessment of the scheme is impossible.

12.30 From figures available at the Directorate-General for Agriculture the Audit Board established that the deficit for the campaign which ended on 30 June 1976 was as follows:

	(u.a.)
Deficit for the year	41 980 000
Surplus carried forward from previous years	<u>(17 099 000)</u>
Net deficit carried forward 30 June 1976	<u>24 881 000</u>

Owing to a considerable increase of the sugar storage levy for the campaign 1976/77, the financial year 1976/77 closed with an excess in the order of 14.3 million u.a. This increase has, however, not enabled the deficit mentioned to be absorbed. On 30 June 1977, the compensation scheme for sugar storage showed a cumulative deficit of 10.6 million u.a.

12.31 The Court of Auditors recommends that to permit a proper assessment to be made of the financial management of the scheme, annual accounts of the compensation scheme for sugar storage costs, made up to 30 June, should in future be presented as an annex to published accounts of the Commission.

Part II

THE EUROPEAN DEVELOPMENT FUNDS

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SECTION I — THE FIRST THREE EUROPEAN DEVELOPMENT FUNDS

Chapter 1 — Analysis of the general accounts

1. The European Development Funds are brought to account outside the Community budget. On 31 March 1978 the Court of Auditors received the balance sheets and the accounts of the four European Development Funds, approved by the Commission, relating to the 1977 financial year in accordance with the provisions of the Financial Regulations in force.

2. The first three Development Funds were created respectively by the Implementing Convention provided for in Article 136 of the EEC Treaty and by the Yaoundé Conventions of 20 July 1963 and 29 July 1969. Initially drawn up for a 5-year duration, they were however prolonged and at the end of the 1977 financial year none of these three Funds had been closed. The slow operation of the Funds is summarized in Table 38. As regards the first Fund, which in 1977 was in its 19th year, 17 out of a total of 410 projects remained unclosed with a

commitment balance of 1 620 049 u.a. But under the second Fund, 8 years after the expiration of the basic Convention, a new decision was taken in 1977 to devote 103 000 EUA to a fish-farming project in Benin. Out of 931 projects and operations which received financial assistance, 106 were unclosed at 31 December 1977.

3. The closure of the remaining projects under the first Fund, together with the Decision not to enter into any new commitments under the second Fund, and the establishment of the balances available from it at the end of 1977, should make it possible to speed up the final closure of the first two Funds and reallocate the balances to the third.

4. The following table sets out the allocation of commitments by category under the third Fund.

Table 38 — Operation of the first three Development Funds Cumulative situation
at 31 December 1977

(in EUA)

	1st EDF 1959-64	2nd EDF 1964-69	3rd EDF 1970-75	Total
A — Available resources				
Initial appropriations	581 250 000	730 000 000	905 000 000	2 216 250 000
Transfers of balances from first to second EDF	-10 669 794	+10 669 794	—	—
Miscellaneous non-allocated revenue	token entry ⁽¹⁾	85 154 ⁽²⁾	218 465 ⁽³⁾	303 619
Available appropriations	570 580 206	740 754 948	905 218 465	2 216 553 619
B — Utilization of funds				
Global commitments	570 145 609	734 077 815	875 810 419	2 180 033 843
Final commitments	569 106 713	723 600 463	807 823 982	2 100 531 158
Authorizations for payment	567 472 605	714 402 820	697 860 038	1 979 735 463

⁽¹⁾ Revenue consequent upon Council Decisions of 15 February 1971 (oleaginous products) and 12 November 1974 (Secretariat building of the Association of African States and Madagascar (AASM)).

⁽²⁾ By Council Decisions of 12 November 1974 and 29 January 1976, 3 386 366 EUA was allocated to the purchase of a building for the AASM Secretariat in Brussels.

⁽³⁾ 4 441 426 EUA was allotted to the partial rectification of exchange-rate losses arising from floating rates in accordance with the Council Decision of 9 December 1975. The balance of 1 145 146 EUA (Item 'product of floating rates') will be regularized in due course and will form the subject of a special study by the Court of Auditors.

Table 39

(in thousand EUA)

	Appropriations	Global commitments	Final commitments
AASM			
Non-refundable aid	752 718	741 408	692 967
Refundable aid	80 500	64 713	64 713
Total AASM	833 218	806 121 (96.7 %)	757 680 (90.9 %)
Overseas countries and territories (OCT)			
French overseas departments (FOD)			
Non-refundable aid	62 000	59 690	44 598
Refundable aid	10 000	9 999	5 546
Total OCT-FOD	72 000	69 689 (96.7 %)	50 144 (69.6 %)
Grand Total	905 218	875 810 (96.7 %)	807 824 (89.2 %)

5. As regards the non-refundable aid, the implementation of decisions taken by the Commission in the field of general technical cooperation was 68.9 %. This situation is more apparent than real, however, and results in a time-lag in the allocation of expenditure relating to EDF study grants. Advances made to grant holders totalling 5 560 373 EUA feature on the assets side of the balance sheet pending the submission of documentary evidence allowing them to be charged to the Fund. These advances awaiting settlement represent expenditure relating to the academic year 1974-75, and also a balance owed by the former management body for the awarding of grants in Belgium for the academic year 1972-73. The existence of this balance, which is not in line with expenditure incurred in the last five years runs counter to the principles of sound financial management. It should be cleared as soon as possible.

6. An examination of the statement of accounts of the first three Funds has highlighted numerous cases where appropriations were exceeded: 6 cases where commitments exceed appropriations concern the first two Funds and total 258 178 EUA while 32 overruns in authorizations for payment totalling 412 748 EUA occur under the second and third Funds. Attention was drawn to one of these cases by the Audit Board in its report on the 1976 financial year. It concerns a lawsuit relating to the recovery of two deposits where the relevant documents had been mislaid (Algeria — Project 11.27.05).

7. In addition, under the third EDF, 67 overruns of appropriations were recorded for commitments and payments of contracts in national currencies. It is not possible to determine whether a data processing error gave rise to this situation or in some cases changes in the par values in relation to the EUA.

8. Incompatibilities also exist in the administrative and financial accounts of the second and third Funds:

(i) The financing carried out since the application of the second Convention amounts to 714 423 955 EUA in accordance with the statement of the financial accounts adopted on 31 December 1977. But the revenue and expenditure account drawn up on the basis of the administrative accounts shows authorizations totalling 714 402 820 EUA. There is consequently a difference of 21 135 EUA that a reconciliation between the two accounts could duly have established and rectified.

(ii) The comparison between the total financing carried out referred to in the balance of the third EDF and the total authorizations featuring in the revenue and expenditure account reveal a disparity of 35 199 EUA of which 27 878 EUA relates to non-refundable aid to the AASM and 7 321 EUA to similar aid to the OCT/FOD.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 1 to 8, as follows:

As it pointed out in its reply to the comments on the 1976 financial year, the Commission is trying to close the operations of the first two European Development Funds as soon as possible.

With regard to the first Fund, there are at the moment eight projects outstanding, which represent a balance of commitments of approximately 970 000 EUA and should normally be closed by the end of 1978; the exception is the Comoros Republic where a commitment of 200 000 EUA has still to be put to use.

With regard to the second Fund, 29 projects have been closed since 1 January 1978, thus reducing the number of projects outstanding to 77.

In accordance with the wishes of the Court of Auditors, on 5 July 1978 the Commission sent the Council a proposal for a decision designed to reallocate to the third Fund the appropriations left over from the finished projects in the second Fund. In this way no new financial decisions will be taken with regard to the second Fund and the transferred appropriations will be used in accordance with the procedures governing the management of the third Fund.

It is quite true that a figure of 5 560 373 EUA is given on the assets side of the balance sheet for advances granted to EDF grant-holders. However, these advances awaiting settlement, taken as a whole, do not represent any adjustment of the 1974-75 academic year which has been finally closed, except for the sums totalling 1 112 198.28 EUA which remain to be recovered from two managing bodies; 248 182.61 EUA were repaid to the Commission in August 1978 and then transferred to the new managing body in Italy. Of the difference, i.e. 864 015.67 EUA, owed by the old managing body in Belgium 826 882.90 EUA have been accounted for, the balance of 37 132.77 EUA being held over pending the Commission's final decision.

To sum up, the figure of 5 560 373 EUA breaks down as follows:

1 112 198.28 EUA	Referred to above
3 530 825.35 EUA	Instalments paid to managing bodies in respect of 1975-76
917 289.42 EUA	Clearing of advance made to the EAC and to Zaire for the 1974-75 academic year and regularized in June 1978
60.32 EUA	Alterations to charges
5 560 373.37 EUA	

The overruns in EUA, which were found when the balances from the four Funds at 31 December 1977 were checked, were covered either by correcting the charge against the budget, or by a supplementary commitment in the books for the 1978 financial year.

The overruns are not due to insufficiency of appropriations, but rather to temporary discrepancies resulting in most cases either from a time-lag in making the entries in the different classes of accounts or from something being erroneously charged in respect of a contract or, again, as the Court of Auditors observes, 'from the outcome of changes in the par values of the paying currencies in relation to the EUA'.

The deviations between the computerized accounts and those done by the accounting officer at the end of the year are explained by the fact that certain entries were recorded at the end of the year with different dates in each set of accounts.

There were two reasons why the deviations could not be corrected at the end of the financial year:

- (i) *under the Financial Regulation, and Article 40 in particular, the accounting officer's account is only closed when the statements of account as at 31 December from the authorized paying agencies (approximately 56) reach the Commission, i.e. at the end of February. Hence the closing balances on the two sets of accounts can only be rectified after they have been established, i.e. at the beginning of March. It then becomes extremely difficult to seek the reasons for any deviation, since the end-of-year balance sheets and administrative accounts have to be drawn up within the prescribed time-limit, i.e. by 31 March, which is the date laid down in the Financial Regulation for all these papers to be sent to the Commission for approval before they are forwarded to the Court of Auditors;*
- (ii) *computerization of the accounts at the Computer Centre which was begun roughly two years ago was supposed to be fully operational by now. Unfortunately, for reasons outside the Commission's control, the accounting system for the European Development Funds is not yet perfect. For some months now, the Computer Centre, owing to a change of equipment, has had to convert the data in store so that they can be used by the new system and this has interrupted the progress of the original programme. Moreover, changes in the*

Luxembourg Computer Centre's organization chart have brought changes in the assignments of officials.

The Commission is aware of these problems and has already taken steps to remove the difficulties, the principal causes of which are as follows:

Firstly, the date by which entries must be closed: the accounts have to be submitted for approval to the Commission and then forwarded to the Court of Auditors by 31 March in the following financial year at the latest (Article 64 of the Financial Regulation); secondly, Article 40 of the same Financial Regulation also requires that each year's accounts should show all revenue and expenditure between 1 January and 31 December.

This dual obligation places the accounting departments in a difficult position, for it is practically impossible to satisfy both requirements at the same time. It has been decided, therefore, that in future both sets of accounts will be closed finally on 31

December of each year; the last entries relating to operations carried out during the financial year may be recorded up to 15 January of the following year.

The extension will leave enough time for the accounts to be closed by the end of January and the books to be checked before the balance sheets and revenue and expenditure accounts are drawn up on 31 March.

It goes without saying that the books should be compared during the financial year itself by means of the monthly balances. However, if concordance is to be the rule, it must also be admitted that comparing the authorizations for payment with the commitments may, in certain cases, temporarily reveal an overrun of appropriations for an individual project, for example where a first payment has to be made immediately although commitment procedures have not yet been completed pending the arrival of contract documents which have to be processed by the national authorizing officer. The last payment also may be delayed when exchange rates diverge in relation to the EUA.

Chapter 2 — Comments on various types of aid

A — INTRODUCTION

9. Owing to the late setting up of the Court of Auditors and the need to organize its sectors, the Court has been prevented from carrying out (as it would have wished) a thorough inspection of all of the documents and files sent to it by the Commission as from December 1977 or which had been previously sent to the Audit Board. The audits carried out within the first financial year assessed by the Court of Auditors have thus necessarily been confined to specific surveys dealing with a limited number of operations of the European Development Fund. The Court of Auditors intends, however, to re-examine some of the problems in its next report so as to fill in the gaps existing in its first report. The comments and criticisms which are set out below are confined to those situations where the Commission has not taken the necessary corrective measures in due time or has failed to supply the evidence and information which the Court requires in order to

establish that revenue has been received and expenditure incurred in a lawful and regular manner and to assess the soundness of the financial management of the Funds.

10. As for the submission of supporting documents and files relating to the revenue and expenditure of the Fund, some projects involve unusually long time-lags because of the delay in the closing of accounts. These delays not only pointlessly freeze the available balances, but also protract the auditing activities and to a certain extent dampen the interest in any comments made.

The following examples illustrate this criticism:

- (i) The last payment for the Project 3121.784.16.17 'Marketing of bananas' was made in May 1974, but the closure was postponed until May 1976, i.e. 2 years later.

- (ii) The last payment for Project 215.115.24 relating to the survey of the 'Setting up of small and medium-sized firms' was made on 1 October 1969 yet the project was not closed until 30 June 1976, i.e. six years and nine months later.
- (iii) The last payment for Project 212.104.25 'Study of stock-farming on the Bateke plateau' was made in June 1969 yet the project was not closed until June 1976, i.e. 7 years later.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 9 and 10 as follows:

The Commission is aware of occasional delays in sending certain closed files to the Court of Auditors and has taken steps to remedy this anomaly, which no longer happens except by accident.

Project 3121.781.16.17 'Marketing of bananas' (Somalia) consisted of a contract for a study of the importing, marketing and selling of Somali bananas in Italy. The expert carried out his task to the Commission's satisfaction and sent in a first bill for his fee and other expenses incurred in connection with the study. However, it was laid down in the contract that the expert could also claim for certain travel and subsistence expenses within a prescribed time limit. The Commission's financial departments therefore kept the project open for a while in order to cover these expenses, should they arise, but the expert submitted no further claim. This explains the time-lag between the expert's submission of the report, the first payment and the closing of the project which was deliberately delayed in order to meet further contractual expenses. As it turned out, the expert's study cost 1 438.89 EUA less than the 3 000 EUA appropriation.

Projects 215.115.24 'Setting up of small and medium-sized firms' (Senegal) and 212.104.25 'Study of stock-farming on the Bateke plateau' (Zaire) were closed late by the Commission; the files give no reason for this delay, save perhaps, that the uncertain nature of the results meant that the contracts had not been fully carried out. Both projects were closed with appropriation left

over. The three examples, however, represent only a small percentage of the 85 projects which were closed during financial year 1977.

B — INVESTMENTS

11. In general, investment projects financed by the EDF are characterized by too many delays, on the one hand between the initial financing decisions and their implementation and on the other, but to a lesser extent, between the invitations to tender and the performance of the contract work. These delays are very expensive and are reflected in major cost overruns in relation to the estimates or in reduced performance. An analysis of these delays often raises questions about the administrative arrangements in the recipient Member States, and also about last-minute project changes.

12. These cost overruns are equally due to the inadequacy of the preliminary studies, giving rise at a later stage to additional work or to changes in the techniques to be used. The following cases illustrate this point:

- (i) The repair and resurfacing work carried out on the Fort Lamy road, Massaguet, which was originally improved and surfaced in 1968 within the framework of a financing agreement under the second EDF for 3 132 000 EUA (Project 211.017.24), is being financed with fresh funds from the third EDF (Project 3100.041.17.17) amounting to 488 566 EUA. This work, which was expected to last for six to eight months, in fact took two years (1973 to 1975) principally because of local administrative and technical difficulties.
- (ii) The implementation of the agreement for the financing of the construction of two slaughterhouses at Thiès and St Louis in Senegal has also suffered substantial delays. Economies have consequently been necessary in order to remain within the financing constraints. Invitations to tender for this project, adopted within the framework of Agreement SE/204 of 25 May 1966, were not forthcoming until April 1971, i.e. five years later, the contracts only being signed with the successful tenderers in November 1973. They were not submitted for the Commission's approval until February 1974, i.e. 22 months after the invitations to tender.

The works were started eventually in July 1974 (a delay of four months after their commencement had been announced), but, taking into account an extension in the work schedule of three months, completion was achieved within the new deadline and provisional acceptance took place in July 1975. But the two slaughterhouses were still not in use by November 1976, the month for final acceptance. According to information received from the Commission, it was only during the second half of 1977 that they became operational. The overall budget for the construction of the two slaughterhouses was CFAF 100 million. In fact, the cost amounted to CFAF 129 373 075, an apparent increase of 29.4 %. But this situation in fact conceals an effective increase of 40 % if one takes account of the fact that the pig and horse sections of the Thiès slaughterhouse were cancelled. This percentage of overrun would certainly have been smaller and the project would have been completed in its entirety if the procedures for rendering an the conclusion of contracts had not delayed work until 1973 and 1974, which were years particularly affected by inflation. Some comments relating to the setting of the project in its local economic environment should be added to these considerations of a financial nature. The financing agreement entailed an obligation on the part of the Senegalese authorities to take certain parallel measures to improve the domestic marketing of meat and ice, together with the processing of by-products. An examination of the files submitted for scrutiny to the Court shows that some of these conditions have not been fulfilled, which calls into question the value of the two investments.

- (iii) An agreement involving 1 488 000 EUA for the construction of 50 seasonal schools in Mali (Project 11 21 309) was signed on 8 June 1961. The implementation of this project has been particularly slow; it was not finished until November 1977, i.e. 16 years after the financing agreement and the real cost rose to 2 062 149 EUA. As regards conformity with the financing agreement, the examination of contracts and breakdowns of payments has revealed disparities between the quantities of equipment and furniture ordered and the estimates. Certain work included in the cost estimate has not been done or was not in conformity with what was intended. This applies in particular to the sinking of wells, the issue to various administrative departments of vehicles that were intended for schools, the partial taking over of schools by the public service and the resale of part of the agricultural material. The erection of

schools has been particularly slow and difficult: out of 50 initial areas 22 were altered when the invitations to tender were issued and nine others while work was in progress. There have been delays at various stages of the project. The monetary reform of 1962 at the same time as the raising of import duties and taxes made necessary a more or less general review of contracts, resulting in their revision. The unsatisfactory nature of some supply and works estimates, which were subsequently discarded, compounded the delays.

On the financial level, the delays in the drawing up of certain estimates assigned to the agricultural engineering department, the late release of the balances of advances made and in one case not utilized, and the devaluation of the Malian franc have resulted in an exchange loss of 12 664 EUA.

The procedure for payment in the case of some contracts appears questionable. Payments made in connection with two substantial estimates have been transferred to the private account of the head of the agricultural engineering department.

Within the framework of assistance to the national administration for agricultural education and rural development in Bamako-Bakarybougou, the total sum was paid on the signing of the contract and simultaneously an assignment of claims to the same amount was made, leading to the assumption that the work had already been carried out and paid for by a third party before the signing of the contract. Given the retroactive effect of these arrangements the Fund was presented with a *fait accompli* which excluded any intervention by the Commission's delegate. Part of the agricultural material supplied for the project was even sold by the local authorities. In the files sent to us there was no mention of the way in which the money arising was allocated.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 11 and 12, as follows:

The Commission is aware of the sometimes long periods elapsing between the financing decisions and the performance of the contracts. The occasional slowness in this sector is due to various causes which have already been analysed.

N'Djamena (Fort Lamy) — Massaguet road

The reasons for the delays and the overruns may be summed up as follows:

A planning of the project:

A specialist agency produced a study of the surfacing of the road, planned in 1964. This proposed a highway consisting of a 15 cm gravel base reinforced with cement and a double-layer surface, having regard to the foreseeable traffic and the materials available in the region. In view of such points as Chad's climate (very long, hot dry season and a short winter with torrential rains) a road of this type requires careful and regular maintenance which the Chad Government was unable to carry out for lack of funds. This lack of maintenance and the resulting rapid deterioration of the highway led us to finance, from the third EDF a reconditioning scheme based on repairs of the base course where needed and a single-layer surface.

Costs:

The prices of imported products in Chad, a landlocked country more than 1 200 km from the nearest port, are far higher than elsewhere in Africa. Apart from this permanent disadvantage, a new and unexpected factor worsened matters while the project was in progress — the oil crisis, which led to an increase in costs (fuel, bitumen, transport, etc.) of up to 100 %.

Administrative problems:

The Chad Government encountered major problems on the technical side and with personnel. At present, the Chad public works department is acquiring manpower and materials financed by the Community from the fourth EDF to organize a permanent service of maintenance for asphalt roads. Problems like those affecting the N'Djamena-Massaguet road project should — in principle — no longer occur.

The construction and equipping of two slaughterhouses, at Thiès and St Louis

The administration commissioned the design study from the Rural Works Department and SERAS (Société d'exploitation des ressources au Sénégal) in order to keep all the funds for the work proper. The design records had to be revised several times before an invitation to tender could be issued. When the contracts were awarded, the slaughterhouses had to be actually redesigned to suit the tenders from specialized firms and to meet certain hygienic requirements if any of the meat was to be exported. These design changes were carried out by a German firm and took almost eighteen months because (a) of the complicated nature of the matter, and (b) agreement had to be reached with the Senegalese Government on certain very specialized technical aspects.

The total allotment of EDF Funds did not cover the establishment of networks outside the slaughterhouse sites or the provision of minor items of slaughtering equipment. The municipalities of Thiès and St Louis were responsible for the outside networks and it was for the Senegalese Government to supply the additional minor items of equipment. Unfortunately, the completion of the work financed by the EDF fell in the middle of an economic crisis which affected all countries, in particular those in the Sahel which also had to cope with the drought.

For these reasons, and despite many approaches by the Commission delegate to the administration and to the country's highest authorities with a view to expediting the start-up of the slaughterhouses, this could not take place earlier. All the problems have now been solved and both slaughterhouses are operational.

The experimental introduction of meat not slaughtered locally was impossible as the St Louis slaughterhouse was not yet operational. Similarly, the study of the market for ice in Louga could not take place as the ice had to be carried along with the meat from St Louis. Finally, it was accepted in 1968 that an extended experiment to take ice to Djourbel was no longer justified as this town already had its own

production and distribution unit. The factory to process the by-products was completed in 1969.

It is too soon to reach a decision on the economic viability of these two investments as the slaughterhouses have only just become operational. Furthermore, the special conditions laid down in the financing agreement have been met as far as possible, i.e. bearing in mind the actual timetable for carrying out the project. Management of the slaughterhouses has been vested in SERAS; a survey of the market for ice at Djourbel has been carried out and a factory for processing the by-products built. The problem of ice production at Louga in conjunction with the carriage of meat from St Louis remains to be solved, as does the trial introduction of non-locally slaughtered meat (from St Louis) on the Dakar market.

Construction of 50 seasonal schools in Mali

Completion of this project took a particularly long time because of the various changes made and difficulties encountered while it was in progress — in particular the demands of the Mali Government which made completion of the project contingent on the construction, out of project funds, of administrative offices for agriculture.

As regards compliance with the financing agreement, some activities were indeed changed during implementation: well-sinking was cancelled, vehicles and schools were allocated to various administrative departments, some of the agricultural equipment was sold, the national administration for agricultural education and rural development at Bamako was reorganized and, finally, the sites of the schools were changed.

The first supplement to the financing agreement eliminated the well-sinking originally planned and replaced it by the provision of additional agricultural equipment. However, it was agreed that the Mali Government would finance this work from its own budget.

The allocation of vehicles and schools to various administrative departments was the result of decisions made by the Mali authorities without consulting the Commission delegate, and although it was not in accordance with the financing agreement, it should be recognized

that the Mali administration took this course in order to avoid the dispersal of the vehicles throughout the country and in order to economize on maintenance costs. The schools then obtained the (more suitable) mopeds and the administrative departments given the vehicles were all connected with rural development. Furthermore, the occupation of some schools by the community service is justified by the fact that rural development centres were set up in 1964 to recruit young people to carry out a two-year spell of community service which includes training in modern agricultural techniques.

Resale of part of the agricultural equipment by means of a long-term loan was preferred to free distribution to the school-leavers. The changes of site are due to the cursory preparation of the project by the Mali administration.

The Commission delegate repeatedly and insistently asked the administration for the loans to the pupils to be repaid into a special account and then allocated to the project to permit its completion. So far, these approaches have remained unsuccessful.

The financial execution of this project inevitably reflects the vagaries of a project spread over a period of 16 years. Nevertheless, the exchange loss of 12 664 EUA following devaluation of the Mali franc was unconnected with these delays as it affected an advance authorized one month before devaluation. Similarly, the Commission also considers that the Court's criticism concerning the payments made into the private account of the head of the agricultural engineering department who directed the project should be less black and white. On finding that payments to finance the imprest accounts had been made into the private account of the director, the Commission delegation reacted immediately and issued instructions for the payments to be made to the special account opened in the name of the head of the agricultural engineering department in his capacity as project director in accordance with the general rules.

C — ASSOCIATED TECHNICAL ASSISTANCE

13. The inspection of the files and supporting documents dealing with the studies revealed some irregularities in the procedure, which give the contracts concluded with the consultancy offices the appearance of being rectifying contracts. This led the

Commission to provide temporary backing for the services of the consultancy offices without a commitment being entered into the accounts. The 36 000 EUA contract let to a consultancy office for the purposes of the EDF survey (Projects 3120.703.06.20, 3120.703.09.29 and 3120.703.02.24) was not signed until 14 June 1974 despite the report being scheduled for the end of May 1974. Moreover, the invoices submitted for repayment of the cost of two missions to Africa from Europe reveal that they took place in February 1974. In addition, the penalty clause was not applied. This would usually have penalized the late submission of a report.

14. Another contract, relating to the setting up of small and medium-sized enterprises in Senegal, concluded on 30 May 1969 for a value of 5 000 EUA, entered into force retrospectively as from 6 January 1969. Various missions have already been carried out in Africa and in Europe since January 1969 and the report was sent after 28 February 1969, i.e. three months before the signing of the contract, which nevertheless stipulated a period of four weeks.

15. In its reports the Audit Board criticized the practice whereby the same consultancy office was granted contracts both for the appraisal of a project and for the management or supervision of any works arising from the study. The Commission justifies this practice on the grounds that the office doing the study will be the best equipped to do the work. On the study relating to the water supply in town of N'Djamena (Project 3122.172.17.15) however the report was considered barely acceptable, the cost analysis seeming clearly inadequate, and lengthy and laborious discussion was needed before its approval. Although the organization which did this work might have been excluded from all technical cooperation, it has, however, been allowed to participate in the supervision of work.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 13 to 15 as follows:

For reasons of economy, the EDF survey conducted as part of Projects 3120.703.06.20 — 09.29 and 02.24 was added to other surveys which the branch of IFOP was to conduct in

Africa in countries different from those selected by us although using Marcomer's technical facilities at the same time.

The difficulty of coordination and implementation on the spot explains the contradictions found in the execution of the contract, in particular the journeys made in February 1974, the month's delay in submitting the report (a delay which the Commission has accepted for this reason), and the signature of the contract subsequent to these things.

Article 3 of the study contract relating to the setting up of small and medium-sized enterprises in Senegal, concluded on 30 May 1969, stated that the contract would enter into force on the date of its notification with retroactive effect from 6 January 1969.

This provision in Article 3 was adopted for two main reasons:

- (i) the urgency invoked by the Senegalese Government for the completion of the study in question; to this the Commission responded by asking the Société d'Etudes pour le Développement Economique et Social (SEDES) to send an expert to Senegal as soon as possible (the latter was not available until January and February 1969);*
- (ii) the time required to draw up the official contract and for it to be approved by the Senegalese authorities, the company and the principal EDF authorizing officer, i.e. three months including the time required for dispatch of documents.*

The administration had done all it could, prior to the departure of the expert, to ensure that SEDES accepted the terms of the final version of the contract. The delay in carrying out this project is due to an unintentional omission.

The consultants COTEI were commissioned in 1965 to carry out that first study on the water supply of N'Djamena (Contract ET/233 — Project 212.177.02). The same consultants were awarded Study Contract ET/1033 (Project 3122.172.17.15) in 1972 to complete the assessment of the proposed project because they were completely familiar with the project. As stated in the assessment report, the consultants carried out the technical parts to our satisfaction but underestimated the cost of the work which largely exceeded those of Project 3100.172.17.18.

In accordance with the practice whereby the consultants who carried out the studies are commissioned to supervise the work, COTEL was awarded a contract for the next phase in conjunction with another consultant agency, CRG, which has more staff to cope with special problems. This consortium, which is jointly and severally liable, will ensure that the project is completed.

D — GENERAL TECHNICAL COOPERATION

Programmes of general technical cooperation

16. Some operations seem to have been decided upon without an adequate analysis having been made of the situation beforehand. Significant costs were incurred in the execution of these projects, even where they were cancelled before completion, but they served no useful purpose.

Only 166 260 EUA, i.e. 67 % was used out of the initial commitment of 245 278 EUA for the project 'Training of skilled workers at Rwanda' (Project 3102.052.14.07). Nothing resulted from this project. The reason for this failure appears, among other things, to be the lack of professional and teaching experience of the young instructors, members of an association of volunteers having a rapid turnover rate. In addition, the fact that the operational expenses were charged to Rwanda and that the centre was not controlled by any official Rwanda ministry

or department would hardly seem to have been beneficial to its operation.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 16, as follows:

The Commission agreed to finance the project to train farmers and skilled workers at the express request of the Rwanda Government. Since this project has several new features, it was not until the preliminary results were obtained that the Commission realized how difficult it would be to achieve the goals set.

Realizing the possible political implications of changing the form or procedures of the project, the Commission endeavoured to keep expenditure to a minimum after financing the training courses which had already commenced. This is the reason for the large sum (79 000 EUA) which was not used in the project.

Despite the Rwanda Government's request for the project to be extended, the Commission succeeded — with difficulty — in winding up the project. The equipment, materials and vehicles purchased under the project were given to the Gitarama University of Radiophysics in September 1975 following the decision of the Ministry of National Education to convert Crafaq into a centre for the retraining of teachers for practical work.

SECTION II — THE FOURTH EUROPEAN DEVELOPMENT FUND

Chapter 1 — Analysis of the general accounts

17. The fourth association Convention, the Lomé Convention, signed on 28 February 1975, entered into force on 1 April 1976, after ratification by the contracting parties. This association was

progressively enlarged by the accession to the Convention in 1976 of three States, former Overseas Countries and Territories, whose association was provided for by the Council in its decision of

23 February 1976. They are the Republic of Surinam, the Republic of the Seychelles and the Comoros. 1977 saw the accession of the Republic of Sao Tome and Principe, the Republic of Cape Verde and the Republic of Papua-New Guinea, for which ratification procedures are underway. In December 1977 the Council agreed to the accession of the Republic of Tibuti to the association Convention, bringing the number of associated ACP countries up to 53. The Convention is due to expire on 1 March 1980, five years after the date of signature.

18. The financial and technical cooperation provided for within the framework of the fourth

Fund was financed from an initial allocation of 3 390 million EUA. The Council decision of 29 June 1976 relating to the Association of Overseas Countries and Territories increased the overall allocation under the Convention to 3 552 million EUA, including 3 152 million EUA for the fourth EDF and 400 million EUA to be granted in the form of loans by the European Investment Bank.

19. At the close of the financial year 1977 the breakdown of EDF aid was as follows:

Table 40

		(in million EUA)	
		ACP (African, Caribbean and Pacific States)	OCT (Overseas Countries and Territories)
Subsidies	2 167 of which	2 100	67
Special loans	470 of which	430	40
Risk Capital	100 of which	95	5
Stabex	395 of which	375	20
Reserve	20	—	—
Miscellaneous revenue and Stabex repayments	3 206	—	—
Total	3 155 206		

20. The Commission took 238 decisions during the financial year 1977, involving a total 707 690 169 EUA and bringing the total global commitments allocated from the Fund since May 1976, the date when the first commitments were made, to 1 089 856 729 EUA. There was thus a 34.5 % utilization of appropriations, somewhat below that of the third EDF, which at the close of the second year had shown a 48.7 % utilization rate. As regards the OCT/FOD, the utilization rate is still only 10.4 %.

(a) The decisions taken during the first two financial years relate mainly to non-refundable aid of 797 833 714 EUA, i.e. 38 % of the allocation to the Fund.

(b) At the close of the financial year, the global commitments in the form of special loans granted to 21 ACP countries and one of the OCT

category amounted to 148 109 EUA, i.e. 34.4 % of the allocation. Three of these loans involve shares in small and medium-size enterprises totalling 1 530 000 EUA.

(c) The risk capital, which was not the subject of any decision during the preceding financial year amounted to a total of 30 105 439 EUA at the close of 1977, i.e. 31.7 % of the allocation. Ten countries benefited from this new type of aid, amounting to 24 105 439 EUA, while 6 000 000 EUA was allocated to regional cooperation.

(d) The decision taken in respect of Stabex (Chapter 2, Section C) to the benefit of 11 ACP and 2 OCT countries brought the total global commitments up to 112 898 576 EUA, i.e. 75.3 % of the 1976 and 1977 allocations. The operations adopted in three instalments in 1977 relate to 11

ACP and 2 OCT countries in respect of the year of application 1976 and a transfer to Mali in respect of the year of application 1975.

21. At the close of the 1977 financial year the final commitments arising from the implementation of the financing agreements amounted to 450 805 757 EUA, i.e. 14.3 % of the allocation and 41 % of the decision taken by the Commission. These final commitments are broken down as follows:

Table 41

(in EUA)

Non-refundable aid	265 412 171
Risk capital	29 231 439
Special loans	43 263 571
Stabex operations	112 898 576
Total	450 805 757

22. Among the non-refundable aid, the transactions and contracts concluded within the framework of investment operations amount to 117 918 514 EUA. 59 872 281 EUA has been entered for special aids concerning which decisions have been implemented in 14 ACP countries. By contrast, the contracts concluded for small projects amount only to 756 000 EUA, i.e. 13.3 % of the amount set aside for this purpose.

23. Only six of the ACP countries have implemented the special loans decision taken by the Commission for a total of 43 263 571 EUA, representing a 29.2 % utilization rate. This figure does not include the loans to the benefit of the small and medium-size enterprises.

24. Taking account of the special commitment and payment procedures for Stabex operations, all of the decisions for amounts totalling 112 898 578 EUA gave rise to final commitments.

25. Payments made at the close of 1977 amounted to 245 527 941 EUA, representing 22.5 % of the total global commitments and 54.4 % of final commitments. This final rate covers very different situations, depending on the intervention sectors — e.g. the clearance rate for investments amounts to only 33.5 %. Training gave rise to authorizations of 1 970 830 EUA, i.e. 3 % of the decisions taken, but it must be borne in mind that these decisions involve multiannual programmes and, as for the third EDF, a major part of the advances paid in for the grant-holders has still not been charged as expenditure pending inspection. These advances of 5 789 233 EUA appear on the assets side of the balance sheet. In spite of their urgent nature special aids only resulted in payments of 30 945 760 EUA, i.e. 51.7 % of the final commitments.

26. For the fourth Fund, the utilization of commitments and payments for the first two years of activity has been as follows:

Table 42

(in 1 000 EUA)

	1976	% approp.	1977	% approp.
Global commitments	382 166	12.1	1 089 857	34.5
Final commitments	134 474	4.3	450 806	14.3
Payments	97 470	3.9	245 528	7.8

27. An examination of the statement of accounts has revealed the existence of commitments being exceeded by 282 346 EUA (two cases) and nine cases of payments being exceeded by a total of 3 888 039 EUA. As for the third EDF, 44 such cases are also apparent as regards contracts in national currencies. These should be rectified without delay.

28. On the liabilities side of the balance sheet the resources of the fourth EDF are quoted as 3 155 206 447 EUA. 3 150 million EUA is by way of contributions paid by the Member States, 3 043 248 from miscellaneous revenue arising from the interest payments on funds deposited by regrouping the liquid assets of the four EDF; 102 065 EUA is exchange rate profit, 61 133 EUA represents the contributions of the ACP and OCT towards restoring the level of the Stabex resources, and 2 million represents the EIB's debt to the Commission on the basis of the Council Decision of 29 June 1976. This decision was designed to increase the OCT/FOD appropriations from the revenue held by the EIB which arises from its management of special loans and revenue from transactions involving risk capital.

29. The contributions of 451 million EUA called for were all paid in by 31 December 1977.

30. The share of liquid assets belonging to the three first Funds in the special accounts at the Treasuries of the Member States or with other financial bodies, and for which accounting management has been regrouped under the fourth EDF since 1 July 1975, is shown in the liabilities column of the balance sheet with debts at 188 526 124 EUA.

31. 'Operations to be rectified' amounting to 842 689 EUA are also included under the liabilities of the balance sheet. 655 393 EUA of this relates to payment orders established in 1977 for which notices of implementation have not yet been received by the Commission, while 187 296 EUA relates to miscellaneous operations awaiting allocation.

32. On the assets side of the balance sheet, the cash accounts of the four Funds shown under the heading 'unused resources' total 330 542 506 EUA, compared to 141 458 921 EUA at the close of 1976. These are broken down as follows:

Table 43

	(in EUA)
(a) In the special accounts in the Member States:	
Belgium	48 530
Denmark	6 039 051
FR of Germany	67 746 831
France	59 261 819
Ireland	2 469 189
Italy	21 772 267
Luxembourg	912 329
Netherlands	5 138 511
United Kingdom	2 087 585
	165 475 112
(b) With the paying agents and other financial institutions in the Member States:	
Belgium	45 781 380
FR of Germany	3 249 727
France	13 834 511
Netherlands	23 105 915
United Kingdom	45 693 745
	131 665 278
(c) With the paying agents in 40 ACP States	30 088 823
(d) With the paying agents in Algeria (first EDF)	244 403
(e) Amounts in transit at 31 December 1977	3 068 891
Total	330 542 507

33. The sundry debtors include the advances granted since 1975 (33 041 279 EUA) to the European Association for Cooperation as well as advances agreed upon to various bodies responsible for the management of EDF study grants for the academic years 1976-77 and 1977-78, i.e. 5 789 234 EUA. The 'operations pending' concern auditing and equalization activities to an amount of 22 146 217 EUA. It consists of expenditure authorized and paid overseas but which is only entered into the accounts after checking by the EDF departments.

34. As regards the authorizations relating to special loans and risk capital for the ACP and the

*subsidies for the OCT the revenue and expenditure account has been drawn up on the basis of the statements in the financial accounts. Further, at the level of commitments there are differences in intervention areas between revenue and expenditure account and the administrative accounts.

These differences amount to 5 478 253 EUA and compensate each other.

There are also discrepancies between the administrative accounts and the financial accounts: The accumulated total of financial and administrative expenditure amounts to 64 000 EUA in the administrative accounts and 6 376 234 EUA in the authorizing officer's accounts. For the financing carried out and advances granted, the difference amounts to 6 528 081 EUA (see the authorizing officer's accounts). The same applies for the accounts described as 'other revenue' where the difference is however negligible (+ 1.66 EUA in the administrative accounts).

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 17 to 34, as follows:

The Court of Auditor's comments call for a number of explanations:

The low rate of utilization of appropriations (10.4 %) for OCT/FODs is mainly due to constitutional changes, i.e. greater decentralization recently granted to some territories (Polynesia and New Caledonia): There has therefore been a delay in the submission of projects. In another instance (New Hebrides), the submission of projects to the Commission was delayed because the approval of two authorities

with political responsibility for the decisions had to be sought.

The question of overruns was discussed in connection with the first three EDFs.

It is untrue to state, as regards authorizations for special loans and risk capital for the ACP and subsidies for the OCTs, that the revenue and expenditure account was drawn up on the basis of the statements in the financial accounts.

At the close of the 1977 financial year the final balance revealed five incorrect allocations, i.e. four commitment and authorization allocations for Stabex and a fifth entry concerning the decision to finance non-refundable aid to one ACP country amounting to 5 478 253 EUA. The first four entries (amounting to 5 138 253 EUA) were included under 'risk capital' instead of under 'Stabex' as a result of incorrect coding when the account was opened; computer correction can only be made every three months, i.e. too late for the balance to be rectified. In the fifth case, the entry (340 000 EUA) was incorrectly put under the heading 'investment' instead of 'small projects'.

The Commission discovered these errors when it received the statement showing the balances of the accounts prior to drawing up the expenditure and revenue account. Since it was impossible to correct this balance, it decided to rectify this situation when drawing up the expenditure and revenue account, i.e. to ensure that the latter was an accurate account of the commitments and authorizations for the different categories of EDF operation. This explains why the Court of Auditors found a discrepancy between some figures in the balance of accounts and in the expenditure and revenue account. The rectifications were entered in the accounts in March 1978.

Chapter 2 — Comments on various types of aid

A — GENERAL TECHNICAL COOPERATION

Training programmes

35. At present, approximately 2 500 persons from ACP States are benefiting from study grants and training courses within the framework of the Lomé Convention and about a thousand students receive grants from the third EDF. In addition, there is an increasing number of specialized teachers to carry out specific tasks in the various ACP States. The aim of the training programme is to ensure the replacement of foreign technical assistants in the ACP States and a more effective management of investments. The EEC/ACP Council of Fiji (14 April 1977) recommended that emphasis should be given to the training of staff, in particular middle grades for personnel administrations, public services and professional training organizations, and that where possible a closer link should be forged between the different development projects financed by the Community in each ACP State, with a view to their gradually becoming the responsibility of the national administrations.

36. On 31 December 1977, 29 multiannual training programmes were approved by the Commission. These programmes are the outcome of programming missions undertaken in the various ACP States. It is at this stage, at the request of an ACP State, that the programme is determined and an appropriate amount set aside from the allocations within the fourth EDF for training.

37. The amount of overall appropriations reserved solely for training programmes differs greatly from one ACP State to another. In some States the commitment entered into for training exceeds 5 % of the total aid of the fourth EDF while in other States there is none. Grants are awarded for study in Europe and in the ACP countries. In general, the study grants in Europe are reserved for post-graduate studies, for graduate studies and for professional training classes which are not available in Africa. The allocation ratio is approximately one-third in Europe and two-thirds in Africa.

38. As at 31 December 1977, 64 804 000 EUA from the fourth EDF were committed to the financing of training for 50 ACP States. The final commitments amount to 13 609 504 EUA, i.e. 21 % of the overall commitments. Actual payments came to 1 970 830 EUA, i.e. only 3 % of the total commitments. 5 789 234 EUA were distributed in advance payments to the various bodies responsible for the management of EDF grants in the Member States for the academic years 1976/77 and 1977/78. As at 31 December 1977 expenditure from the third EDF for training programmes amounted to 27 664 014 EUA.

39. The choice of grant-holders is still decided on the spot without objective selection on the basis of an examination. This could lead the ACP States to propose EDF aid for those candidates unsuccessful in the selection tests for other grants and thereby lower the success rate of EDF grant-holders. The allocation of many grant-holders to private teaching establishments due to the insufficient qualifications of the grant-holders and their non-admittance to State schools, is directly linked to this problem. Not only are such studies costly, but the real value of these diplomas and the outlets offered by this education is still unknown. The Commission delegates should play a more effective role here.

40. Priority should be given to training linked to EDF projects. On many occasions, the Audit Board expressed the desire to see a change in the awarding of grants to suit the educational needs arising from the investment projects undertaken within the framework of the Fund. At present, this aspect is taken into account in only a minority of proposals. The Court of Auditors is of the opinion that each financing agreement should contain a separate annex showing the staff requirements for the maintenance and operation once the project has been completed.

41. On 31 December 1977 the former Belgian management body still owed Bfr 1 801 000. This debt to the EDF has been owing since 31 January 1974 and should be recovered as soon as possible.

The role of Commission delegates in implementing training programmes and in allocating grants will become more important after the completion of the ground work bringing to the attention of the ACP more of the opportunities for cooperation in the field of training offered by the Community under the Lomé Convention.

With regard to training requirements arising from projects financed by the EDF, it should be noted that a number of investment proposals provide for training as part of the actual project. Multiannual training programmes often make provision for 'linked' training, irrespective of any 'non-linked' training.

Moreover, special training programmes on, for example, health, the management and maintenance of ports and so on ensure that infrastructure investment will be well managed and maintained and will function properly.

The balance to the credit of the EDF relating to the former Italian management body was recently settled when the Italian Government refunded the moneys due. Steps are being taken to recover the balance owed by the former Belgian management body.

There have been several attempts at assessment since the training programmes were introduced in 1961 but these have only been partially successful. A more thorough attempt is currently being made with the help of the Commission's Computing Centre. It should result in the grant programme back to 1961 being put on computer file some time in 1978, which should make management and assessment easier.

Actions to promote trade

43. The participation of ACP States in trade fairs and specialized international exhibitions is one of the actions to promote trade provided for in the Lomé Convention.

44. As at 31 December 1977 the financing decisions under the fourth EDF for trade promotion had given rise to global commitments totalling 10 847 562 EUA, of which 5 481 682 EUA were

finally committed in various contracts and agreements. Actual payments, however, amounted to not more than 2 745 507, i.e. 25.3 % of global commitments.

45. The analysis of this type of action has to take into account considerable variations between one ACP State and another as regards the utilization of the available credits, the standard of preparation for the fairs and exhibitions and the presentation of the goods exhibited. To improve matters the Commission should give technical advice to the ACP States so as to maximize their chances of penetrating Community markets.

46. During an on-the-spot audit the Court found, as had the Audit Board in the past, that some stands had been erected but either not used or used for a different purpose from that originally intended. In order to ensure the maximum return from such ventures the Commission should satisfy itself, before the stands are erected, that the States concerned will in fact participate. The same audit showed that many things provided for in the instructions relating to the construction or decoration of these stands had not been done by the contractors and, therefore a reduction in the payment due ought to be made. Experience with previous fairs has shown, however, that in the majority of cases payments made correspond exactly with the estimates thereby suggesting the inadequacies of the checks on such work.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 43 to 46, as follows:

The global commitments as at 31 December 1977 (10 847 562 EUA) represent the total amount of financing proposals adopted by that date (actions to be carried out under national target programmes and actions to be carried out using resources earmarked for regional cooperation). As these planned operations include actions spread over two or three years, it follows that the percentage of payment orders issued should not be based on global commitments but on the value of contracts and deals actually signed. The percentage is not therefore 25.3 % but 50.08 % which is not unusual, especially considering the fact that many of the payments are made in the ACP countries.

Similarly, there remains a balance to the credit of the EDF of approximately 250 000 EUA relating to the former Italian management body, whose contract was terminated 31 December 1975.

42. In 1976 and 1977 the Commission reviewed the educational grant programmes carried out between 1969 and 1975 in the individual ACP States, taking account of the sectors involved. The results of this assessment are still not available.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 35 to 42, as follows:

The small percentage of total commitments allocated to training expenditure is due to:

- (a) the fact that a number of ACP States have been slow in drawing up their multiannual training programmes;*
- (b) some new ACP States which are unfamiliar with the allocation procedures lost a great deal of time when the Lomé convention first entered into effect;*
- (c) the multiannual programme covers the period from 1976 to 1980 and in 1977 it had only been running for eighteen months, the first grants being awarded in July 1976;*
- (d) other causes (late arrival of applications, incomplete applications, increasing difficulty in finding places for trainees in Europe).*

The training programmes also involve sending instructors and organizing seminars and other training projects. Problems in recruiting some instructors and slow-moving procedures are also one of the reasons for the slower rate of authorizations.

Under the Lomé Convention, the authorities of each ACP State are responsible for selecting the applications for grants to be submitted to the Commission. In several ACP States there is a grant committee (on which a Commission delegate sits in some countries) which selects the

candidates to be proposed to the EDF or for other aids, in accordance with the legislation of the ACP State, on the basis of the student's academic achievements or of various criteria for trainees.

The conditions for the award of grants and their duration are laid down in the general rules governing the implementation of the study grant and training scheme programme drawn up by the Commission in conjunction with the Secretariat of the ACP States. A copy will be sent to the court of Auditors.

Multiannual training programmes or special training programmes requiring special grants have been approved for a number of ACP States.

When they examine the applications for grants, Commission departments and the delegate of the ACP State bear in mind the objective criteria laid down in the general rules and check that the training requested is compatible with the terms of the multi annual training programme of the ACP State or of the specific training programme for which a grant is requested.

A distinction should be drawn between educational grants and training grants for which the selection criteria obviously differ.

Although the ACP State is responsible for submitting the applications because of the nature of certain types of studies, selection takes place in the examination of the applications and registration of students in educational establishments. An entrance examination is required for some types of training (e.g. statistical training). For some types of technical training the Commission prefers candidates for further training courses to be assessed and selected on the spot by the educational establishments.

Training at private institutes is available for a relatively limited number of grant-holders. Some provide training recognized as good. No diplomas are awarded at the end of professional training programmes.

There is still a number of problems regarding training in Europe bound up with the equivalence of diplomas and the changes required to enable English- and French-speaking students to follow courses in Community countries other than those where equivalence is more likely to be recognized because historical ties already exist.

The Commission is concerned to see that actions to promote trade are better distributed between the different ACP countries. With the agreement of the beneficiary countries it therefore took steps to organize short visits to those ACP countries less well-organized in this respect with the basic aim of identifying marketing difficulties and suggesting ways of overcoming them. As regards fairs and exhibitions particularly, the Commission has published a special 'Exhibitor's Guide' in French and English giving all the information required to prepare and arrange attendance by ACP States at international fairs and exhibitions. The guide, which is to be updated and republished shortly, has been distributed on a large scale to export promotion centres, chambers of commerce, professional associations and so on. The guide has also been used as a basis for seminars for directors of ACP stands and their staff. Lastly, whenever the Commission has been able to send an official from the department concerned to the fairs and shows in the Community programme, he has spent his time providing the ACP exhibitors with suitable technical advice.

It sometimes happens that an ACP country which has asked for and obtained aid from the Commission to participate in a trade fair included in the Community programme is unable to attend at the last minute. To avoid the problems this causes, the Commission requires ACP countries to confirm their attendance in writing about a month before the exhibition opens.

Whenever possible, the Commission makes every effort to check in situ the construction of stands by contractors. In an attempt to facilitate and rationalize this check a form has been prepared for use by officials and staff from the settlement body. The document testifies to the services actually provided and as a check has to be signed after inspection by the contractor and by the Commission's representative.

B — TECHNICAL SUPERVISION AND DELEGATED FINANCIAL CONTROL

47. In its last report relating to the 1976 financial year, the Audit Board noted that the adoption of the accounts for the European Association for Cooperation (EAC) had not taken place in time for

them to be examined. Since 1974 the auditing of these accounts has had to be postponed every year. The date of submission set for the end of March of the following financial year is subject to increasing delays, to such an extent that the 1976 accounts did not reach the Court until February 1978. The EAC blames this delay of over 10 months on the increase of work arising from the setting up of new overseas delegations in application of the Lomé Convention. The situation has improved considerably as regards the 1977 accounts, which were adopted on 18 April 1978. Their (unofficial) transmission to the Court of Auditors did not, however, take place until the end of April and this was limited to the balance sheet and its annexes, i.e. no supporting documents were submitted. In these circumstances the Court will have to deal with the accounts in its next Annual Report.

48. The comments which follow therefore only apply to the 1976 financial year and are confined to expenditure relating to overseas activities.

49. On the assets side of the balance sheet submitted by the EAC, purchases of equipment and furniture appear under the fixed assets heading. The amount is 2 116 483 EUA, of which 743 886 EUA is by way of acquisitions of the financial year 1976 (193 808 EUA in 1975). This significant increase is due to the creation of new delegations, provided for by the Lomé Convention. The goods acquired for the technical assistants are not, however, included in this total. These goods in fact become the property of the authorities to whom technical assistants have been assigned.

50. The total expenditure for 1976 amounts to 18 549 031 EUA as opposed to 12 881 916 EUA in 1975, i.e. an increase of 44 %. This total is made up as follows:

— Expenditure for technical supervision:	14 265 955 EUA, i.e. 76.9 %,
— Expenditure for technical assistance and cooperation:	3 253 763 EUA, i.e. 17.5 %,
— Expenditure relating to study grants:	1 029 313 EUA, i.e. 5.6 %.

51. The expenditure for technical supervision showed an increase in 1976 of 57.6 % compared to the previous financial year. This increase is mainly due to the doubling in size of the delegations created

within the framework of the new ACP Convention (41 as opposed to 20), but 13 consultancy firms continued to be associated with the operations of the overseas delegations. During the financial year 1976, the remuneration received by these offices amounted to 1 959 151 EUA.

52. The relatively reduced increase in the expenditure for technical assistance and cooperation in relation to the preceding financial year (11 %) is explained, according to the EAC, by the fact that 1976 is a transitional year in the field of technical assistance. On the one hand, a great number of contracts covered by the third EDF have expired, and on the other the conclusion of new contracts charged to the fourth EDF has only taken place gradually. It is likely that the effects of these commitments will make themselves felt in 1977.

53. In 1976 debtors reached a total of 504 556 EUA, including 334 356 EUA for miscellaneous debtors (of which 265 618 EUA relate to provisional insurance premium for death and accidents). Advances under various headings to expatriate officials amount to 147 493 EUA; some of these were granted in 1974 and 1975. This last total includes a sum of 66 730 EUA, representing taxes paid by the EAC for the account of an expatriate official. Steps have been taken to recover this amount from the German Ministry of Finance.

54. The surplus cash of the Association continued to increase; in 1976 it reached a figure of 1 721 117 EUA compared with 1 525 778 EUA in 1975 and 749 275 in 1974. Advances granted to overseas officials amounted to 1 095 429 EUA and also reflect the creation of new delegations in the ACP countries, although the advances granted to former delegations established before the Lomé Convention (289 175) also show an increase of 57.8 % in relation to the preceding financial year.

55. Expenditure to be regularized concerning advances not yet accounted for amounted to 530 727 EUA in 1976, 502 048 EUA of which pertained to the financial year 1976, 27 656 EUA to 1975 and 1 023 to 1974. Such delays in the settlement of advances should be avoided and in extreme cases the administrator of advance funds should be made liable.

56. Under the liabilities in the balance sheet, the accumulated total of advances received from the EDF since the creation of the EAC amounts to 99 041 886 EUA, of which 60 389 020 EUA has been allocated and charged by the EDF. The balance of advances received from the EDF and still not utilized or not yet allocated and charged by the EDF is shown at the close of the financial year at 38 652 866 EUA. To this total may also be added the advances agreed upon by the EDF to the EAC in its capacity as administrator of educational grants awarded in Belgium amounting to 2 702 041 EUA.

57. Creditors in the balance sheet include a total of 305 029 EUA for sundry creditors. This heading covers in particular tax deductions as well as the share of accident insurance premium deducted from EAC officials' salaries. Also included are the sums paid for the account of the EAC by the EDF, in particular, a sum of 216 946 EUA mistakenly charged to the headquarters. Similarly, a claim for 733 56 EUA still owing to the agricultural committee of Shaba since 1973 has still not been settled.

58. The table below sets out the increases in staff in 1976 and 1977. The increases in both years are mainly attributable to the setting up of new supervision teams overseas.

Table 44.

	End 1975	End 1976	End 1977
Headquarters staff	36	45	49
Overseas supervision (including the consultancy firms)	123	207	212 ⁽¹⁾
Technical assistance	70	45	65
Officials recruited on the spot	322	420	875 ⁽²⁾
Officials under special contracts	42	37	35
	593	754	1 236

⁽¹⁾ Including 22 officials seconded by the consultancy firms.

⁽²⁾ Including 300 caretakers.

amount, being the cost of the EEC overseas delegations, represents 12.5 % of the total expenses committed under the title of fourth EDF grants.

65. Analysis of these expenses by country and their comparison with the activities supervised shows up material disparities. These are explained by the size of some of the teams, the size of some of the countries, the number, size and nature of the projects and operations supervised and by the types of transport available. These expenses make significant inroads into the Fund allocations and the effect is particularly felt by the least-favoured ACP and OCT States. It appears from this that in future the expenses of EEC delegations should be charged to the Fund as a whole rather than to each individual State.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraphs 47 to 65, as follows:

The accounts for 1977 were adopted more swiftly than in previous years.

This was the result of new instructions given to the EAC by the Commission regarding the clearance of imprest accounts. Now the delays from the end of 1977 have been caught up and the Commission is hoping that the new system which has been in force since October will be fully effective. The supporting documents relating to the 1977 accounts are available to the Court of Auditors. Those documents the Court asked to inspect are being sent.

It should be noted that expenditure on technical assistance which was 3 253 800 EUA in 1976 reached 4 182 500 EUA in 1977, an increase of 30 %.

The amount of 66 730 EUA represents the taxes paid by the EAC on account of an expatriate official. A recovery procedure has been initiated with the tax authorities in the Federal Republic of Germany but this has so far borne no fruit.

Formerly the working funds of the administrators of imprest accounts was approximately equivalent to expenditure for one month. This amount proved to be inadequate and so had to be increased. Working capital is now equivalent to about two months' expenditure.

As a result of the instructions given by the Commission it became possible to cut delays in clearing imprest accounts. The item 'expenditure to be regularized' will be reduced as far as possible in 1978. Compared with 1976, the increase in this item at the end of 1977 was lower than that in expenditure (29 % as against 47 %).

The amounts mistakenly charged in 1976 to the headquarters instead of to the EDF account were discovered when compiling the balance and were put right in 1977.

The 733.56 EUA claim has still not been settled. The EAC had kept this claim on its books in order to guard against the risk of the agricultural committee of Shaba not being able to settle the contracts of its staff. The proceeds will be paid into the country's reserve account.

The Commission is aware of the problems relating to staff and is trying to find a proper solution.

The representations made to the tax authorities in the Federal Republic of Germany to recover the taxes mistakenly paid by the EAC on account of staff of German nationality have been unsuccessful in one case and successful in another. The Commission has even taken the case officially to the Council's ACP-FIN working party, but this was unable to achieve a result in line with the Commission's proposals.

In its memorandum on the renewal of the Lomé Convention, the Commission stated that in future it would prefer to finance delegations' expenditure out of the Commission's budget, in addition to the amounts earmarked for aid to associated countries. If accepted by the Member States, this proposal should solve the very real problems mentioned by the Court of Auditors.

59. In its final reports the Audit Board criticized the utilization of staff employed under special contracts assigned to the departments of DG VIII where they carry out tasks normally allotted to Commission officials. This situation leads to an increase in Commission staff beyond the limits set by the table of staff attached to the budget. The Commission made several unsuccessful attempts progressively to integrate these officials into its departments. Some integration was achieved but it gave rise to the systematic re-employment of more officials under special contracts. Acting upon these comments, the Council, in its discharge decision of 5 April 1977 relating to the implementation of the operations of the third EDF for the financial year 1973, invited the Commission to carry out the progressive integration of EAC officials under special contracts into the staff of the Commission. The Council also noted the Commission's intention not to replace the officials benefiting from this integration by the granting of fresh special contracts.

60. On 10 May 1977, however, two proposals relating to the financial years 1976 (19 330 000 EUA) and 1977 (21 415 000 EUA) for financing the delegations and the consultancy firms in the ACP countries, were submitted to the Commission for approval. It was proposed that appropriations entered in the estimates for these two previous financial years should be used, among other things, for the assignment to Brussels of a certain number of experts recruited under special contracts to carry out support duties at DG VIII. This situation did not escape the attention of the financial controller of the Commission, who on 13 June 1977 told the principal authorizing officer of the EDF of his refusal to approve the two financing proposals. He rightly recalled on this occasion the Council's comments attached to its discharge decision and he refused to grant his authorization on the grounds that since 1972 there had been no visible integration of officials under special contracts. Nevertheless, given the need to set up and supervise the operations financed by the EDF, and the insufficient number of staff authorized by the operational budget, the Commission, by virtue of Article 19, paragraph 2 of the Financial Regulation of the EDF, decided to ignore the financial controller's refusal to grant authorization. This leads the Court of Auditors to reiterate the criticisms previously formulated by the Audit Board.

61. The continued employment of officials from private consultancy firms in the supervisory teams of overseas delegations, raises another difficult problem even though some of the firms carry out supervisory or research work in other ACP countries.

(In 1976, 12 firms received remuneration in this way amounting to 1 959 152 EUA. In 1977 officials seconded by 11 firms were still included in the delegations at a cost of 1 430 464 EUA.) Carrying out similar duties to those of experts directly recruited by the Commission, and directed through the medium of the EAC, these officials are concerned both with training and with the preparation and implementation of projects. The assignment of work to private enterprises whose role is not always clearly defined is questionable and should be avoided.

The justification advanced by the Commission that these firms have specialized skills is not convincing: such firms are not involved in 30 Commission delegations. In any case, the Commission can recruit equally well-qualified staff. Recourse to private consultancy firms only appears justifiable on financial grounds in specific cases, implying services of short duration or requiring highly specialized staff. The Commission should attempt to justify this practice by making a comparative study of the average costs of its overseas officials in the light of experience gained throughout the operation of the four Funds.

62. The Association bears the cost of any income taxes which its officials may be liable to pay under the legislation in force in their country of origin, their country of employment or the country where they are still considered resident for tax purposes. The EAC accordingly paid a substantial sum to the German tax authorities on behalf of a German official posted overseas since 1971. It was not until 1977, and after various vain attempts that the EAC, on the advice of the external audit body, challenged the payment of this tax to the competent regional finance authority in Germany. The tax authorities confirmed that the salary paid by the EAC to this official was outside the scope of German income tax.

63. Appropriate steps not having been taken at the right time, DM 72 167 has been paid in error from the EDF and cannot be recovered from the German tax authorities because it is too late to enter a claim for repayment. The EAC should take rigorous action to avoid any future recurrence of similar mistakes.

64. Firm commitments for supervision expenses for EDF projects and operations reached 34 278 942 EUA at the end of the 1977 financial year. This

CST nomenclatures do not always correspond. These imprecisions increase the difficulty of implementing the Stabex system. Measures should be taken in this connection during the preparation of any new Convention.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 71 as follows:

The products on the list in Article 17 (1) have been transposed in terms of the Nimex system by tariff experts within the Commission. The EEC cannot influence either the choice or the breakdown of the tariff systems adopted by the ACP States; furthermore, the differences are in fact minimal, and experience of specific cases shows that the ACP figures are 'pure'. An ACP State which only produces groundnuts will not export any soya-bean oil, theoretically included in the same subheading in the tariff code which it has adopted.

The c.i.f. (cost, insurance and freight) and f.o.b. (free on board) factor

72. The determination of the c.i.f./f.o.b. factor, required to convert EEC import statistics, expressed in c.i.f. values, consists, in fact, of an 'estimate' based on fictitious values in respect of the years 1971 to 1974 but projected to the years 1975 to 1977. This factor is determined in a happy-go-lucky manner, although it is of great significance for the operation of the system.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 72 as follows:

The determination of the c.i.f./f.o.b. factor is not based on 'fictitious values' nor is it done 'in a happy-go-lucky manner'. Year by year, it is done on the basis of a comparison of the real unit values of exports and imports, including the year of implementation. This method was proposed by Statistical Office experts who had opposed a

different approach based on the information needed to establish payment balances.

Examination of the method of calculating the c.i.f./f.o.b. factors

73. An examination intended to determine the c.i.f./f.o.b. factors used by the Commission, following the comments drawn up in the previous year by the Audit Board, aimed mainly at obtaining confirmation of the method of calculating the factors by the Commission, reveals significant differences in relation to the factors applied although the study is based on the same f.o.b. and c.i.f. figures. This examination has revealed previously established anomalies, such as negative factors, i.e. lower than unity, which practically amounts to saying that goods delivered c.i.f. at Hamburg would be worth less than at f.o.b. shipment from the ACP State. In fact, the real freight and insurance costs had not been calculated as they should have been, but the c.i.f. values were simply divided by the f.o.b. values.

The study in question, financed by the fourth Fund, was entrusted by the Commission to private consultancy firms at a cost of 145 157 EUA. The question arises why the Statistical Office of the European Communities was not asked to carry out at least the first part of this study.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 73 as follows:

From the outset, the administering department was in a difficult position over this c.i.f./f.o.b. factor. Apart from certain clear cases, prudent administration was called for here. The Commission has endeavoured to discharge its responsibilities to the best of its ability. The Commission arranged for the study mentioned by the Court — with the ACP Group's agreement — in order to improve its knowledge on the matter. At the Commission's request, the consultancy firms used two methods in this study: (i) the method usually followed, i.e. a comparison of the unit values of exports and imports expressed in a single currency (the dollar), and (ii) the method of interviewing

C — STABILIZATION OF EXPORT REVENUE (STABEX)

Introduction

66. Title II of the Lomé Convention, relating to the revenue arising from the export of primary products, represents the biggest innovation in comparison with the Yaoundé Conventions of 1963 (second EDF) and 1969 (third EDF). It is designed to bring about the stabilization of revenue arising in respect of exports from the ACP countries to the Community ⁽¹⁾ on which their economies depend to a considerable extent, and which are influenced by marked fluctuations in price and/or quantity.

67. The Stabex system is governed by three limiting conditions:

- (i) Regional limitation: the ACP signatory States of the Lomé Convention and the OCT are the sole beneficiaries.
- (ii) It applied to twelve main products at the time of the signature of the Convention; seven more were added at the EEC/ACP Council meeting in April 1977.
- (iii) Maximum intervention by way of Stabex is limited for the duration of the Convention (1975-1980) to 395 million EUA including 20 million for the OCT. This sum is divided into yearly tranches of 75 million EUA for the ACP and 4 million for the OCT. Any balances are automatically carried forward to the following year.

68. As at 31 December 1977, 29 ACP and OCT States had benefited for the years 1975 and 1976 ⁽²⁾, from transfers totalling 114 172 214 EUA ⁽³⁾ in respect of 19 products. The utilization of the annual tranches for the ACP countries is 97.05 % for the implementation year 1975, and 48.38 % for 1976. For the OCT these percentages amount respectively to

44.96 % and 82.51 %. The transfers were made up of grants of 70 920 830 EUA and loans for 43 251 384 EUA. At the end of 1977, a single reimbursement was received from an OCT State amounting to 61 133 EUA.

69. An analysis of the management of the Stabex system reveals a certain number of deficiencies.

ACP/EEC defects

70. The calculation of Stabex transfers is partly based on the import statistics of the Member States of the Community and partly on the export statistics of the ACP States. The sometimes incomplete and inaccurate nature of the figures obliges the administration to use estimates, which are difficult to assess, especially since these figures are not subject to on-the-spot checks.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 70 as follows:

These estimates reflect the sum total of experience acquired on the subject and are often cross-checked with information from commercial agents, international bodies responsible for trade in the product concerned and the Member States' Statistical Offices.

In addition, on several occasions when the Commission has asked for further particulars concerning specific import figures, corrections have been made by the Member States' Statistical Offices.

Difference in nomenclature in the statistical systems

71. The EEC statistics are classified by products according to the EEC harmonized nomenclature for external trade statistics (Nimexe) system, while ACP statistics partly follow the classification of statistics and tariffs (CST) system. For some products from the list of goods pertaining to the Lomé Convention this presentation prevents the reader from picking out the correct data for want of suitable subheadings. Such is the case, for example, of the various classifications of oil, raw sisal, mohair, pyrethrum and Ylang-Ylang oil. In addition, the subdivisions of the Nimexe and

⁽¹⁾ Some States benefit from the Stabex system relating to exports irrespective of destination.

⁽²⁾ See Annex I, Diagrams Nos 12 and 13.

⁽³⁾ Including a sum of 1 273 640 EUA for the Salomon Isles for which the signing procedure was in process.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 74 (iii) as follows:

As has already been said, where the reliability of the ACP figures may be in doubt, the Commission cross-checks these figures not only with the import figures but also with publications in the specialist press, the statistical bulletins of the market organizations, and information from delegates, in other words all the information available at a particular time. Since 1975 nearly all the ACP States have been visited by Commission officials. In 1977 a mission was sent to Mali to examine certificates of origin in a case of doubt.

- (iv) There has been no explanation for the diversity in methods of cross-checking used. In one case the ACP data was used to calculate the transferred sums; in another the EEC statistics were used and in a third case it was the mean average of these two statistical values. Moreover, there has been no systematic check by the Commission of the requests for transfer as laid down in Article 19 (4) of the Lomé Convention. There should have been an investigation into the extent to which the Commission delegations could be more active in this respect in the ACP countries.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 74 (iv) as follows:

Cross-checking, after careful examination of the ACP figures by the department, takes the form of negotiations where considerable discrepancies are found. A measure of flexibility is essential in order to secure an acceptable outcome from such negotiations. In such cases an optimum solution has to be found which, in the light of considerations of time-saving and financial resources, is satisfactory both for the Commission and for the ACP State.

Furthermore, the Commission is willing to draw up cross-checking reports for all cases in which,

for the implementation years 1978 and 1979, there are grounds for cross-checking, i.e. when the transfer requests in question concern situations for which the Commission does not yet have cross-checked figures and for cases in which the bases for cross-checking are not Community import statistics.

The Commission emphasizes that requests are examined in the light of Article 19 (4) in all cases. The fact that, in most cases, the provisions of this paragraph have not been applied does not mean that no examination has taken place but rather that there was no justification for applying them. Where a reduction has been made in the basis for a transfer, the delegations have made valid contributions in accordance with their capacities.

Comment of the Court of Auditors

While welcoming the Commission's intention of drawing up cross-checking reports for all cases in which, for the implementation years 1978 and 1979, there are grounds for so doing, the Court feels impelled to mention that this willingness seems to be the first practical outcome of a Council recommendation, dated 30 October 1978, at the time of giving discharge in respect of the operations of the fourth EDF for the financial year 1976.

In this recommendation the Council considered that any possible disparities between the EEC and ACP States' statistics must be duly justified in a note which explains the choice of quantities and values adopted for cross-checking and not merely by referring to overall negotiations.

The Court can but support this procedure which has been recommended by the external audit body since the initial operation of the Stabex system.

Furthermore, the Court draws the Commission's attention to the difficulties arising from the provisions of Article 17 (1) of the Lomé Convention, which require the assessment of the f.o.b. values for which the ACP statistics are the only source; the same paragraph stipulates cross-checking with the EEC import values, for

shipowners and insurers whenever the first method did not produce satisfactory results⁽¹⁾.

However, in view of the complexity of the market and the discretion observed by the shipowners, it is not an easy task to determine the real cost of freight and insurance. Nevertheless, in the main the studies have produced satisfactory results and in future the coefficients will be used on a better-founded basis.

This study was entrusted to private consultancy firms in order to take account of the need for the agreement of the ACP countries; it was therefore appropriate to have it carried out by private firms rather than by an EEC department.

The Office has received copies of these studies and all the figures used.

Cross-checking of EEC/ACP statistics

74. Article 17 of the Lomé Convention lays down that the statistics used for the implementation of the system are to be those resulting from the cross-checking of the EEC and ACP statistics, taking account of the f.o.b. values. The Court of Auditors has the following comments on this cross-checking:

- (i) The Commission always sets a single c.i.f./f.o.b. factor for the whole of the EEC, irrespective of the rates of freight and insurance, according to the ports of destination and the goods transported, however much they vary.
- (ii) Neither is any cross-checking carried out by comparing values of exports from the ACP country into one of the nine Member States of the EEC with the import values included in the statistics of the Member State, which would show up any disparities more distinctly. Instead, the Commission operates on the basis of the

⁽¹⁾ Moreover, a coefficient lower than unity does not mean that goods delivered c.i.f. at Hamburg would be worth less than at f.o.b. shipment from the ACP State. Arithmetically, this result could be obtained, correctly, in a case in which — in a period of substantial price fluctuations — the unit statistical values do not refer to the same deliveries because of a temporary discrepancy in the notification of unit values of imports, where definitive importation from a warehouse is effected, for example, eighteen months after the arrival of the goods in the port.

value of global exports from the ACP States towards the EEC in comparison with the global EEC imports, the whole being recalculated into f.o.b. values, incorporating all the abovementioned errors. It is clearly necessary to take into account the fact that all the goods do not remain in the country of the port of destination.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 74 (i) and (ii) as follows:

The Commission fails to see the need for cross-checking Member State by Member State in cases where, for the Community as a whole, the total import figures match the ACP export figures. There are many such cases⁽²⁾. In all other cases where there are unacceptable discrepancies between import figures and export figures, cross-checking consists of a comparison of the figures Member State by Member State to pinpoint the sources of the discrepancy. In most cases the discrepancies are due to re-exportation to third countries.

As cross-checking on the basis of Community figures is perfectly adequate in most cases, there would be no justification for applying c.i.f./f.o.b. coefficients Member State by Member State. Moreover, it should be emphasized that the distance factor plays an almost negligible role among the components of the freight rates, i.e. the specific value of the goods, the weight-volume ratio, the nature of the goods etc.

- (iii) The Commission does not check the accuracy of these figures by carrying out on-the-spot analyses of, for example, production or the market.

⁽²⁾ Of course, this is no obstacle to the monitoring of intra-Community trade in a particular product. There are cases where ACP exports to a Member State exceed the latter's imports whereas the converse is true for the other Member States. This state of affairs is attributable to agents in the first Member State reexporting part of their imports to other Member States from warehouses. In these circumstances, the goods retain the origin of the ACP State on final importation.

consideration the direct parity between the Jibuti franc and the US dollar. The 1975 accounts have still not been rectified.

80. For the operation of the Stabex system the Commission worked out each year the average of the monthly mean values at a rate of 1 EUA/1 US dollar. These mean values were subsequently proved to be inaccurate and have been corrected by the Commission. The application of new values should not merely be confined to calculations of transfers for 1977; correction of the 1975 and 1976 transfers may also be required.

Reply of the Commission.

The Commission has replied to the comments made by the Court in paragraphs 78 to 80 as follows:

The figures used were the only valid figures known at the time. Clearly, the principle of using the most recent figures at the time of the proposal, as regards rates of exchange etc., is the only practical method. It should be added that the department makes use of these official figures, e.g. those of the IMF, without any change, since they have been established by specialist authorities more skilled at this task than the department responsible for administering the Stabex system.

The Court of Auditors wants retrospective corrections to be made in all cases where exchange rates (or other values) have been corrected after the transfer decision has been taken and the funds transferred. In the Commission's opinion, this attitude is neither realistic nor practicable and, in most cases, would amount to an infringement of the Lomé Convention.

It may happen that the authorities concerned correct the rates several times or after a period of a few years. This would entail a series of different amounts for the same transfer or the changing of an amount of a transfer decided some years before. It goes without saying that the making of additional payments and/or reimbursements, continually delayed by a few years, would not only have administrative and accounting disadvantages and diminish the Commission's credibility, but also cause the ACP

States difficulties where the 'final' amount is less than the amount transferred.

These disadvantages would appear to be out of all proportion to any advantages that there might be in implementing the Court's proposals on this matter.

If the Commission questioned amounts already decided on and paid over, this would open the door to 'amended' requests by the ACP States. The department has had difficulty in refusing such approaches in the past.

From the point of view of legal and budgetary security it is essential that a financial year should be closed at some specific time. This idea is expressed in Article 18 (3) which stipulates that 'Whatever balance remains at the end of each year of the first four years of the application of this Convention shall be carried forward automatically to the following year'. In practice this means for example that the instalment intended to cover losses of export earnings for the year 1976 lapses on 1 January 1978.

The outcome of using the most recent data is that, in all the cases mentioned in the first paragraph of the Court's report, the exchange rates have been corrected in the transfers relating to the years 1976 and 1977. The same applies to transfers to the Republic of Jibuti.

The soundness of financial management

81. The Court of Auditors recognizes the difficulties that the operation of the Stabex system involves for the Commission and for the ACP countries. It is fully aware of the fact that the implementation of this system requires special efforts, above all in the initial stages. Given that a new convention is being prepared, the Court considers it advisable to analyse the weak points shown by the present system. In particular strict implementing provisions governing the operation of the system are needed. The Court of Auditors considers it preferable to await the closure of the 1977 transfer operations before considering the question of any repercussions on the economies of the various recipient ACP and OCT States involved in the implementation of the Stabex system. This point will be dealt with in its next report.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 81 as follows:

which there is also only one source, namely the EEC statistics.

The calculation of the c.i.f./f.o.b. factor continues to pose major problems, above all since it is of great financial significance for the functioning of the system. In addition, detailed implementing provisions appear to be indispensable.

Average unit costs

75. One can calculate the average cost per tonne of exports of an ACP country to each member country from the declared quantities and values of exports.

When comparing the resulting unit costs between member countries, extreme disparities are apparent, as are abnormal results such as, in some cases, unit costs of large quantities being far greater than those of small quantities.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 75 as follows:

This point concerns the export policy of the ACP States and the import policy of the agents in the Member States. The Commission does not feel entitled to intervene in trade which is carried out, as a matter of principle, on a free market.

Utilization of the funds

76. As Stabex is operated at present, account is never taken of structural changes in the market, for example a drop in demand for cotton owing to an increased use of man-made fibres. But this aspect should not be overlooked by the ACP countries when they utilize the amounts allocated. In this connection it should be noted that Article 20 of the Lomé Convention provides that the recipient ACP countries should forward an annual report on the utilization of funds. The recipient ACP countries could obviously use the Community grants more effectively if the Commission provided technical assistance in the form of an analysis of the markets and products concerned.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 76 as follows:

This point touches on an important problem which, in the present state of affairs, concerns trade promotion. In a broader framework, it underpins the Commission's proposal concerning a mandatory procedure for periodic consultations between the EEC and the ACP States with the participation of the economic and social circles concerned. This idea does not seem to have been favourably received by the ACP States.

Liaison

77. The liaison officers of the various ACP countries play an especially important role in drawing up and forwarding the statistics of the ACP countries, in particular in establishing the origin of exported goods. The Court of Auditors, having only just received the list of these officers, is not yet in a position to make an assessment of the system.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 77 as follows:

The Commission considers that the appointment of a liaison officer for the system is the responsibility of the ACP State concerned. Furthermore, relations between the liaison officers operating at present and the Commission are entirely satisfactory.

Specific comments

78. In the calculation of transfers to Niger and to Togo in 1975 the Commission used an exchange rate US dollar/national currency, which afterwards the International Monetary Fund declared as inaccurate and consequently corrected. Despite the Commission having been informed of this by the Audit Board, the calculation of transfers has still to be rectified.

79. During the calculation of transfers to the Republic of Jibuti in 1976, it became apparent that the 1975 calculations had failed to take into

GENERAL CONCLUSION OF THE COURT ON THE EDF

In conclusion, the Court of Auditors feels it incumbent upon itself to point out that when drawing up its report it recognized the need to raise a certain number of problems, and to make various criticisms and suggestions for improvement in the sectors of activity of the EDF.

Given the number of files examined, however, the few cases referred to represent only a small percentage of the total number of projects financed by the Fund, thus on the whole constituting evidence of sound management of the EDF operations. In a substantial number of cases no anomalies were revealed by the audits, while in others the written or oral replies to its requests for information allowed the Court to withdraw certain comments, sometimes after having first established that the institution had already taken or was about to take measures to rectify the defects reported.

The Court is also aware that its comments must be seen against the overall background of substantial macro- and micro economic achievements made possible by the EDF in the developing countries.

This cumulative action together with food aid has greatly contributed to the improvement of the economic situation of the developing countries and their peoples, particularly the most disadvantaged.

The Court also notes that the Commission in pursuing the objectives assigned to it is often faced on the one hand with the obligation to comply with management and auditing procedures necessary for

the sound financial conduct of its affairs and on the other with the requirement to complete its tasks within the prescribed deadlines, in spite of the distance separating it from the places where the projects are carried out and the various local constraints which are often at the root of the difficulties encountered.

For quite understandable political reasons, however, the Commission has refrained in its replies to the comments of the Court from mentioning these local problems, which would have allowed it, at least partially, to transfer the responsibility for certain events.

In the context of the audit of the EDF, the Court reiterates its opinion of 23 May 1978 concerning the draft regulation on the implementation of the provisions of Protocol No 1 of the Cooperation Agreements concluded with Algeria, Morocco and Tunisia.

The Court noted in that opinion that a large proportion of the aids entered in the budget of the European Communities were administered by the EIB and pointed out that the Court nevertheless remained responsible for the audit of such aids, as laid down in Article 206 (a) of the Treaty.

The Court recalls that this principle also holds true for the EDF operations.

The Court's audit revealed no particular problems with respect to the application of the EUA in 1977 to the fourth EDF.

This statistics-based system, the product of difficult negotiations, presents certain problems in day-to-day management. The Court's observations refer to these problems and their consequences.

The Commission emphasizes the principles of administration which it has followed from the outset and which it regards as essential for the smooth functioning of the system:

(a) Even with a much bigger staff complement, it would be impossible to examine the absolute accuracy of each statistical item. In the search for statistical truth there comes a time when one has to take a statistic, in its current degree of accuracy, as an unquestionable magnitude.

(b) It would be a pure coincidence if the exports of a particular product from country A to country B equalled the imports of that same product into country B from country A. This could only happen in the theoretical case of perfectly planned countries where the statistical figures have more to do with plans than with reality. In all other cases, which can be very varied in nature, import and export figures are encountered which are different or even contradictory, despite considerable effort and investigation.

The Commission is convinced that, as things stand at the moment, only a pragmatic approach can guarantee the smooth functioning of this system, regarded by all concerned as an exemplary effort in the field of relations between the industrialized and the developing countries.

The Commission is also convinced that a simple accounting exercise could show that the expenditure needed to make the statistics as accurate as they could be would have no economic justification. The law of diminishing returns applies here too.

C — INDUSTRIAL COOPERATION

82. Pursuant to the tasks assigned to it in the field of auditing the revenue and expenditure of the European Development Fund, the Court examined the utilization of the subsidy granted for 1977 to the Centre for Industrial Development, an ACP/EEC body, and charged to the fourth EDF.

This audit revealed a certain number of irregularities in the area of principles and more especially in the implementation of the Financial Regulation: accounts kept exclusively in Belgian francs instead of EUA, absence of commitment accounting, neither records of balance sheets nor of revenue and expenditure accounts, excess of appropriations not covered by transfers. The late adoption of the 1977 budget and the legislation governing the Staff Regulations and the scheme applicable to the staff in fiscal, social and legal matters forced the Centre to adopt transitory provisions resulting in the over-payment of salaries and the reimbursement of unforeseen expenses.

Reply of the Commission

The Commission has replied to the comments made by the Court in paragraph 82, as follows:

The Commission is not in a position to pass judgment on the observations made by the Court of Auditors concerning the financial administration of the Centre for Industrial Development in 1977; it merely makes the following observations. As the Centre is a joint institution subsidized by the EDF, the Council of Ministers of the Community has given the Court of Auditors direct responsibility for the control of revenue and expenditure for the European element, whereas the ACP States have given the responsibility for this control, in conjunction with the former, to a person designated by them. As the Commission sponsors the Centre through an EDF subsidy it could no doubt have added its own inspection arrangements. However, it was thought unnecessary to cover the same ground as the joint control arrangements mentioned above.

The Commission concluded its replies on the comments made by the Court of Auditors on the four EDFs, as follows:

The Commission hopes that all the replies and explanations given concerning the various administrative and financial accounts will serve to mitigate the observations made by the Court of Auditors. The latter can rest assured that adequate steps have been taken in the course of the financial year 1978 in order to make good these deficiencies for the future.

A reply has been given, point by point, to the observations made about the projects and agreements revealing certain anomalies (costs in excess of estimates, value of the results obtained in some cases, retrospective nature of certain study contracts).

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ANNEX I**Statistics
relating to the general budget and
to the European Development Funds**

The data in this Annex have been derived from the revenue and expenditure accounts and the balance sheets of the European Communities and of the European Development Funds

Since figures have been rounded off, the totals shown do not always correspond to the exact sum of the amounts given in the tables

Part I — General budget of the European Communities

1. Community budgets prior to the general budget (1952-67) — Summary

Prior to 1 January 1968, the date of the merger of the three executives of the European Communities, the estimate of administrative expenditure of the ECSC and the budgets of the EEC and of the EAEC appeared separately. These were replaced in two stages, on 1 January 1968 and on 1 January 1971, by the general budget. The other financial activities of the ECSC, i.e. the allocation of financial aids ('operational budget') and the borrowing/lending operations are not taken into account below, since they are not within the scope of the general budget.

I — ECSC estimate of administrative expenditure (1952-67)

Legal basis: Article 78 of the Treaty of Paris ⁽¹⁾

Financial Regulations: Not provided for in the Treaty of Paris.

Structure: (Article 78 (2)) — The estimate includes the administrative expenditure of the High Authority, the Consultative Committee, the Joint Assembly (Parliament), the Council and the Court of Justice.

(Since 1958, the date on which Parliament, the Council and the Court of Justice became joint institutions, their expenditure has in principle been divided equally between the three executives. The expenditure of certain joint services also resulted in a sharing agreement.)

Establishment of the estimate of expenditure: (Article 78 (3)) — The general estimate of expenditure is adopted by the Committee of the four Presidents (High Authority, Parliament, Council and Court of Justice).

Financing: (Article 78 (3)) — The financing is ensured by the ECSC levies in accordance with Articles 49 and 50 of the Paris Treaty.

Implementation: (Article 78 (3)) — By the High Authority and by each of the institutions.

Audit: (Article 78 (6)) — By the ECSC auditor.

Discharge: No discharge procedure is provided for.

II — The EEC budget (1958-67)

Legal basis: Articles 199 to 209 of the Treaty of Rome (EEC) ⁽²⁾,

Financial Regulations: (Article 209) — Financial Regulations specify the methods, rules and procedures for establishing and implementing the budget and for presenting and auditing accounts.

Structure: (Articles 199 and 202) — All items of expenditure of the Community are shown in the budget, including those relating to the expenditure of the EEC Commission and the EEC share of the expenditure of the joint institutions and services.

The budget is based on a nomenclature which classifies appropriations according to their nature or purpose.

Establishment of the budget: (Article 203) — It is the Council which finally adopts the budget.

Financing: (Article 200) — Financial contributions of the Member States.

Implementation: (Article 205) — By the Commission on its own responsibility; rules permit each institution to effect its own expenditure.

Audit: (Article 206) — By the Audit Board.

Discharge: (Article 206) — The Council gives discharge to the Commission and forwards its decision to Parliament.

III — EAEC budgets (1958-67)

There are two separate budgets: the operational budget and that for research and investment.

Articles 171 to 183 of the Treaty of Rome (EAEC) ⁽³⁾ form their legal basis.

The financial provisions are identical, *mutatis mutandis*, to those of the EEC with regard to the abovementioned points: Financial Regulations (Article 183), structure (Articles 174 and 175), establishment of the budget (Article 177), financing (Article 172), implementation (Article 179), audit and discharge (Article 180).

⁽¹⁾ Treaty of Paris (18 April 1951): Treaty establishing the European Coal and Steel Community (ECSC).

⁽²⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Economic Community (EEC).

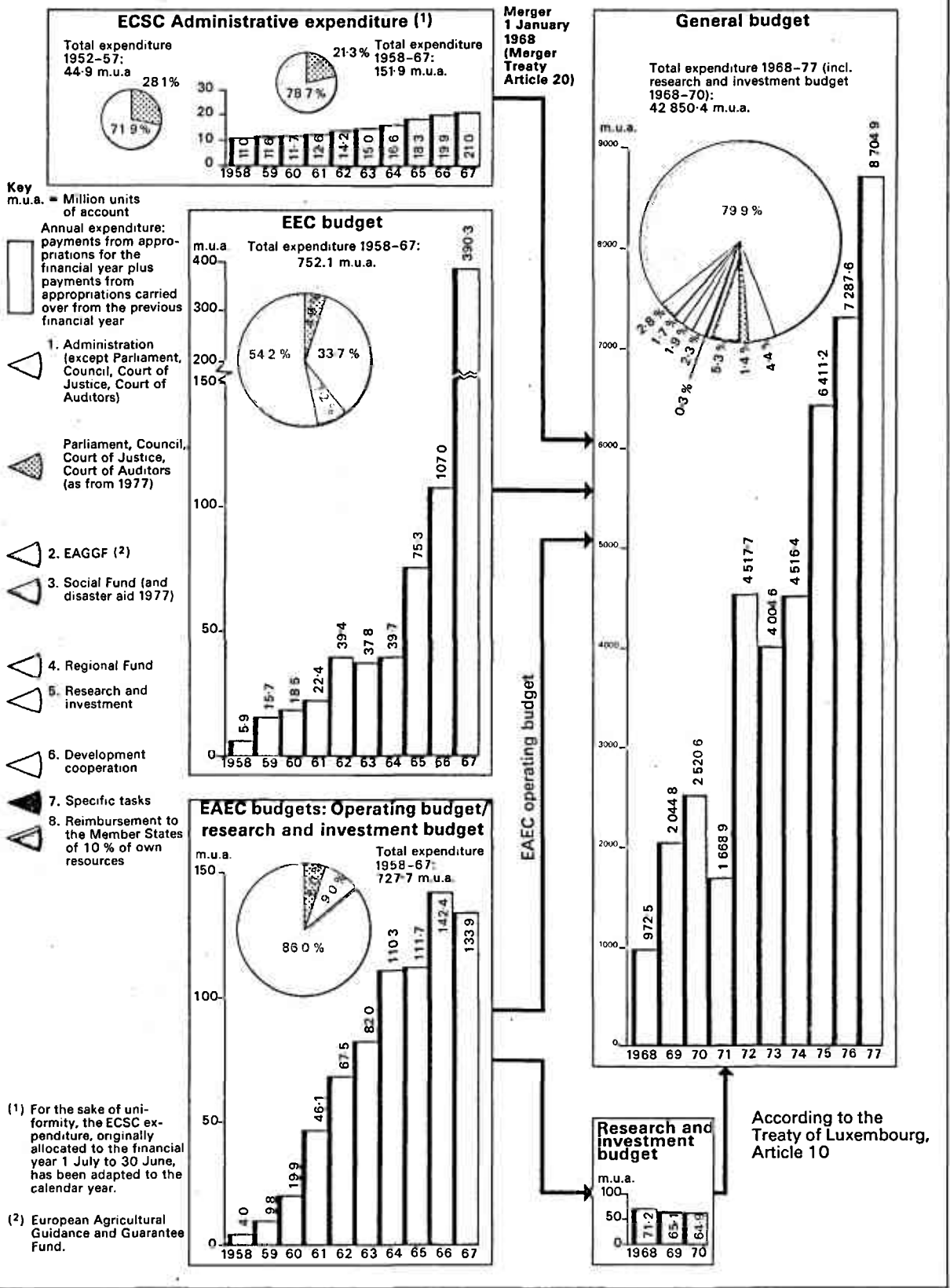
⁽³⁾ Treaty of Rome (25 March 1957): Treaty establishing the European Atomic Energy Community (EAEC).

Part II — The European Development Funds (EDF) (position at 31 December 1977)

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Diagram No 1

3. Evolution of budgetary expenditure of the European Communities from 1952 to 1977 (for detailed figures see Tables Ia and Ib)



2. General budget (as from 1968) — Summary

Origin: Created by the Merger Treaty ⁽¹⁾ (Article 20), the general budget replaced on 1 January 1968 the ECSC estimate of administrative expenditure and the EEC and EAEC budgets. With one exception: the EAEC research and investment budget was only incorporated in the general budget in 1971 by the Treaty of Luxembourg (Article 10).

Legal basis: The financial provisions of the Treaties of Paris and Rome (Article 78 ECSC, Articles 199 to 209 EEC and Articles 171 to 183 EAEC) and their amendments resulting from the Merger Treaty ⁽¹⁾ (Articles 20 to 22), the Decision on own resources ⁽²⁾, the Treaty of Luxembourg ⁽³⁾, the Treaty of Accession ⁽⁴⁾, (Articles 127 to 132), and the Treaty of Brussels ⁽⁵⁾.

Financial Regulations: Financial Regulations lay down the procedures and rules on the establishment and implementation of the budget, the presentation and the audit of accounts.

Important Financial Regulations: Financial Regulation of 25 April 1973 — OJ L 116 of 1. 5. 1973 (amended by Financial Regulation of 18 March 1975 — OJ L 73 of 21. 3. 1975), replaced by the Financial Regulation of 21 December 1977 — OJ L 356 of 31. 12. 1977 (in force as from 1. 1. 1978).

Structure:

- The general budget consists of five separate sections subdivided into statements of revenue and expenditure: (I) Parliament, (II) Council (annexed: Economic and Social Committee; until 1977 Audit Board and ECSC Auditor), (III) Commission, (IV) Court of Justice, (V) Court of Auditors (as from 1977).
- Within each section, the items of revenue and expenditure are classified according to their type or the use to which they are assigned under titles, chapters, articles and items.
- Owing to the differing financing problems of the various sectors, funds may be allocated as dissociated or non-dissociated credits. The financing

of multiannual activities gave rise in certain sectors to dissociated credits, which are divided into commitment appropriations and payment appropriations. Commitment appropriations cover, for the current financial year, the total cost of the legal obligations entered into for activities whose implementation extends over more than one financial year; payment appropriations cover expenditure arising from commitments entered into in the current financial year and/or preceding financial years.

- The total appropriations for commitment are obtained by adding the commitment appropriations of the dissociated credits to the total of non-dissociated credits (i.e. the credits from the sectors, in which no distinction is made between commitment appropriations and payment appropriations). The total appropriations for payment are obtained by adding the payment appropriations of the dissociated credits to the total of non-dissociated credits.

Establishment of the budget: The procedure for the establishment of the budget is governed by Articles 78 (ECSC), 203 (EEC), 177 (EAEC). These provisions underwent several major changes following the Treaties of Luxembourg (Articles 1, 2, 4, 5, 7 and 8) and of Brussels (Articles 2, 12 and 20).

Financing: During the period 1968–70 the financing of the general budget was ensured by financial contributions of the Member States (Article 200 of the EEC Treaty and Article 172 (1) of the EAEC Treaty) and by an ECSC contribution (Article 20 of the Merger Treaty). Pursuant to Council Decision No 70/243 of 21 April 1970 (OJ L 94 of 28. 4. 1970) the financial contributions are being replaced progressively as from 1971 by own resources (customs duties, agricultural levies, sugar levies, VAT contributions).

Implementation: The Commission implements the budget in accordance with the financial regulation in force on its own responsibility; authority for the implementation of its section of the budget is conferred upon each of the other institutions.

Audit: During the period 1968–1976: by the Audit Board. As from the financial year 1977: by the Court of Auditors of the Communities created by the Treaty of Brussels.

Discharge: 1968–70: The Council gives discharge to the Commission on the implementation of the budget and forwards its decision to Parliament.

1971–76: In accordance with the Treaty of Luxembourg, the Council and Parliament give discharge to the Commission.

As from 1977: In accordance with the Treaty of Brussels, the Parliament, on the recommendation of the Council, gives discharge to the Commission.

⁽¹⁾ Merger Treaty (8 April 1965): Treaty establishing a Single Council and Single Commission of the European Communities (OJ 152 of 13. 7. 1967).

⁽²⁾ Council Decision 70/243 of 21 April 1970 on the replacement of financial contributions from Member States by the Communities' own resources (OJ L 94 of 28. 4. 1970).

⁽³⁾ Treaty of Luxembourg (22 April 1970): Treaty amending certain Budgetary Provisions of the EC Treaties and of the Merger Treaty (OJ L 2 of 2. 1. 1971).

⁽⁴⁾ Treaty of Accession (22 January 1972): Act concerning the Conditions of Accession and the Adjustments to the Treaties (OJ L 73 of 27. 3. 1972).

⁽⁵⁾ Treaty of Brussels (22 July 1975): Treaty amending certain Financial Provisions of the EC Treaties and of the Merger Treaty (OJ L 359 of 31. 12. 1977).

5. Budgetary expenditure ⁽¹⁾ of the three European Communities before the merger (1952-67)

Table Ia

(in million u.a.)

		Total 1952-57	1958	1959	1960	1961	1962	1963	1964	1965	1966	1967	Total 1958-67
ECSC administrative expenditure	Administration of the High Authority	32.3	9.5	9.3	9.4	10.0	11.0	11.8	12.9	14.3	15.4	16.0	119.6
	Expenditure for Parliament, Council and Court of Justice	12.6	1.5	2.3	2.3	2.6	3.2	3.2	3.7	4.0	4.5	5.0	32.3
	Total	44.9	11.0	11.6	11.7	12.6	14.2	15.0	16.6	18.3	19.9	21.0	151.9
EEC budget	Administration of the EEC Commission		4.7	13.5	16.0	19.5	23.3	26.5	30.8	34.5	40.6	43.7	253.1
	Expenditure for Parliament, Council and Court of Justice		1.2	2.2	2.5	2.9	3.9	3.7	4.3	4.9	5.2	6.0	36.8
	EAGGF						12.3	7.6	4.6	28.7	52.5	326.7	407.9
	Social Fund									7.2	8.7	14.0	54.3
	Total		5.9	15.7	18.5	22.4	39.4	37.8	39.7	75.3	107.0	390.3	752.1
EAEC budgets	Administration of the EAEC Commission		2.4	4.7	4.9	5.6	6.2	6.3	7.7	8.5	9.4	10.3	66.0
	Expenditure for Parliament, Council and Court of Justice		1.2	2.3	2.5	2.9	3.8	3.8	4.2	4.7	5.0	5.7	36.1
	Research and investment budget		0.4	2.8	12.5	37.6	57.5	71.9	98.4	98.5	128.0	117.9	625.6
	Total		4.0	9.8	19.9	46.1	67.5	82.0	110.3	111.7	142.4	133.9	727.7
Expenditure of the joint institutions	Parliament	5.8	1.8	3.4	3.4	4.1	4.9	4.6	5.4	5.9	6.3	7.2	47.0
	Council	3.2	1.8	2.5	3.0	3.4	5.0	5.0	5.5	6.4	7.1	8.0	47.8
	Court of Justice	3.5	0.3	0.9	0.9	0.9	1.0	1.1	1.3	1.3	1.4	1.4	10.5
	Total	12.6	3.9	6.8	7.4	8.4	10.9	10.7	12.2	13.6	14.8	16.7	105.3
Total budgetary expenditure (ECSC, EEC, EAEC)	Administration	44.9	20.5	34.3	37.6	43.5	51.3	55.3	63.6	70.9	80.1	86.6	543.9
	EAGGF	—								28.7	52.5	326.7	407.9
	Social Fund	—					12.3	7.6	4.6	7.2	8.7	14.0	54.3
	Research and investment	—	0.4	2.8	12.5	37.6	57.5	71.9	98.4	98.5	128.0	117.9	625.6
	Total	44.9	20.9	37.1	50.1	81.1	121.1	134.8	166.6	205.3	269.3	545.2	1 631.7
Evolution of staff ⁽²⁾			2 854	3 538	4 400	5 703	5 947	6 439	7 148	7 753	8 292	8 823	

⁽¹⁾ Expenditure = payments from appropriations for the financial year plus payments from appropriations carried over from the previous financial year.

⁽²⁾ Staff employed at the close of the financial year (not including auxiliary and local staff).

Diagram No 2

4. Evolution of expenditure by sector from 1958 to 1977 (for detailed figures see Tables Ia and Ib)

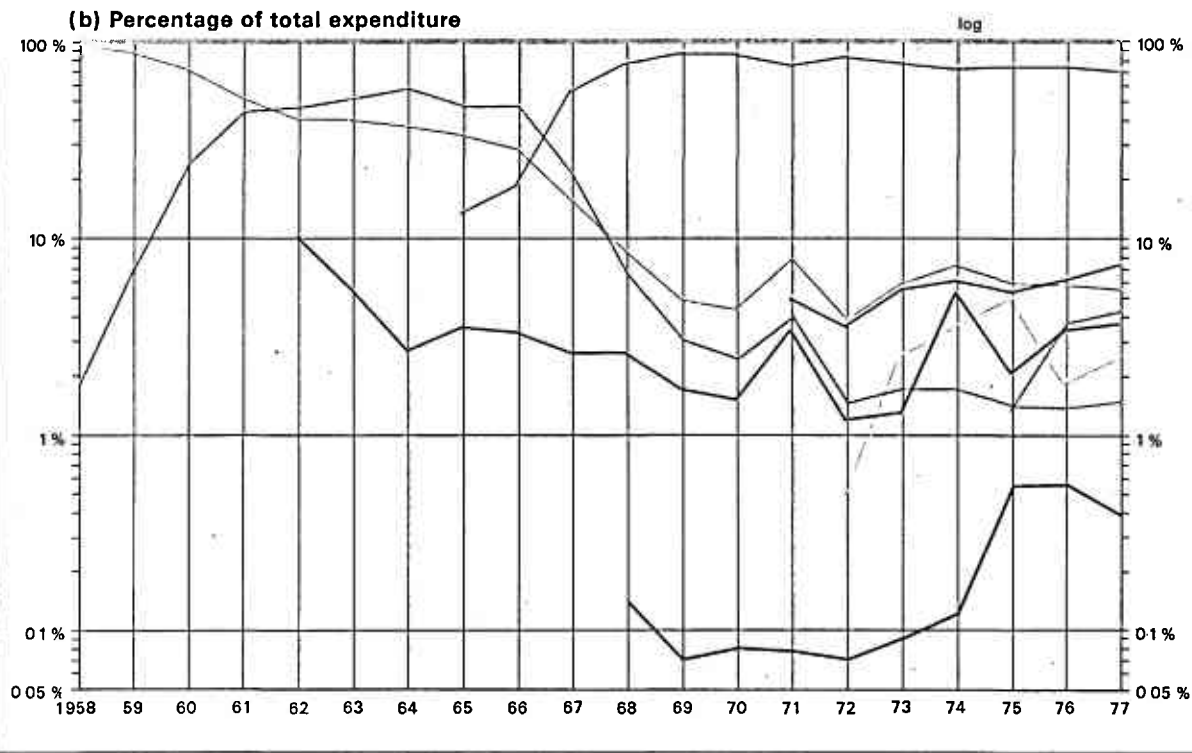
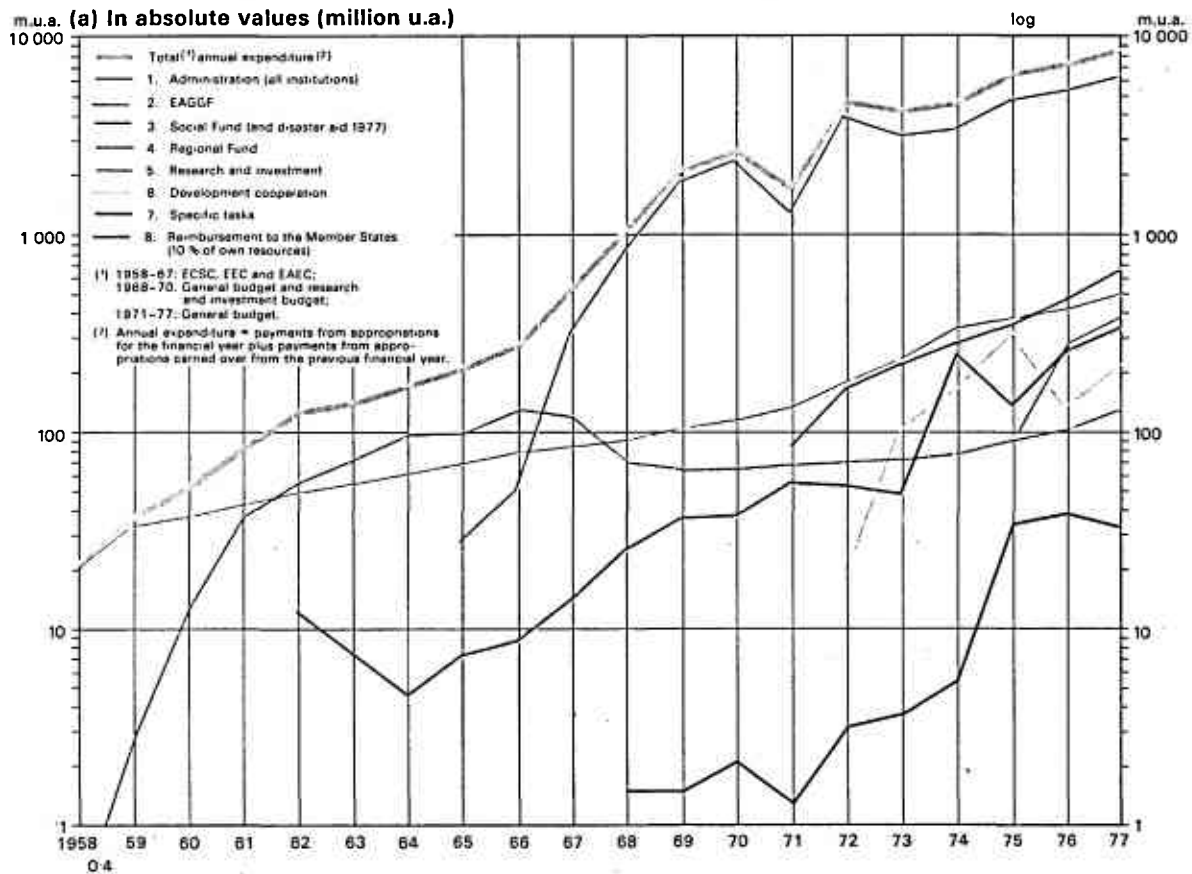
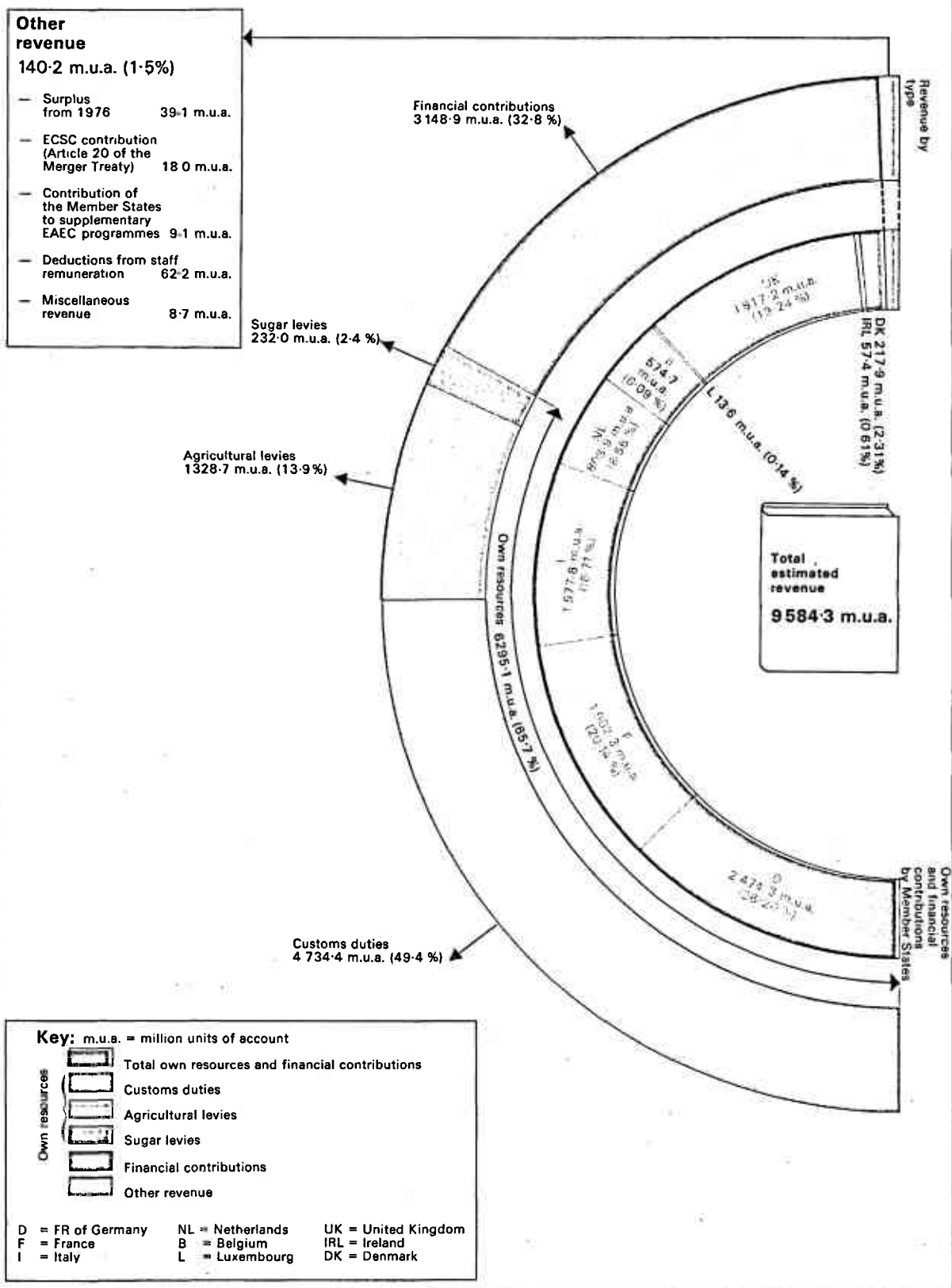


Diagram No 3a

7. General budget 1977: Revenue (after supplementary and amending budgets)



6. Budgetary expenditure ⁽¹⁾ ⁽²⁾ of the European Communities after the merger (1968-77)

Table Ib

(in million u.a.)

	1968	1969	1970	1971	1972	1973	1974	1975	1976	1977	Total 1968-77
1. Administration											
— Commission	74.0	85.4	92.8	102.5	138.9	183.8	262.2	282.7	313.9	366.5	1 902.8
— Parliament	7.8	8.4	9.3	10.9	13.9	22.6	30.7	38.9	44.6	58.5	245.6
— Council	8.4	10.0	10.4	16.3	21.4	27.6	36.5	45.2	52.0	61.0	288.8
— Court of Justice	1.6	1.8	2.2	2.5	3.1	5.4	7.2	8.1	9.2	10.7	51.8
— Court of Auditors	—	—	—	—	—	—	—	—	—	0.3	0.3
Total	91.8	105.6	114.7	132.1	177.2	239.4	336.7	375.0	419.7	497.0	2 489.3
2. EAGGF	853.2	1 901.2	2 366.8	1 324.5	4 022.8	3 297.9	3 406.3	5 005.7	5 583.2	6 463.5	34 225.1
3. Social Fund (including disaster aid within the EC in 1977)	25.9	36.6	37.0	56.5	54.8	49.9	237.5	136.3	256.3	325.2	1 216.0
4. Regional Fund	—	—	—	—	—	—	—	90.7	277.3	372.5	740.5
5. Research and investment	71.2	65.1	64.9	68.6	70.0	72.3	77.7	90.8	102.4	129.8	812.9
6. Development cooperation	—	—	—	—	18.8	104.8	168.7	324.2	136.8	218.4	971.7
7. Specific tasks	1.5	1.5	2.1	1.3	3.2	3.7	5.5	34.3	39.5	33.5	126.1
8. Reimbursement to the Member States (10% of own resources)	—	—	—	85.9	170.8	236.5	284.0	354.2	472.3	665.0	2 268.7
Total	1 043.7	2 109.9	2 585.5	1 668.9	4 517.7	4 004.6	4 516.4	6 411.2	7 287.6	8 704.9	42 850.4
Evolution of staff ⁽³⁾	8 684	8 643	8 625	8 824	9 693	11 076	11 855	12 488	13 022	13 907	

⁽¹⁾ Expenditure = payments from appropriations for the financial year plus payments from appropriations carried over from the previous financial year.

⁽²⁾ For the period 1968-70: General budget and research and investment budget; as from 1971: General budget.

⁽³⁾ Staff employed at the close of the financial year (not including auxiliary and local staff).

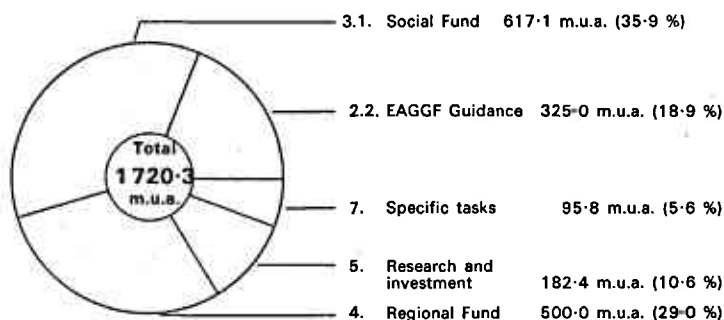
Diagram No 3c

9. General budget 1977: Expenditure – Commitment appropriations of the dissociated credits, appropriations for commitment (after supplementary and amending budgets)

The presentation of the general budget 1977 (Diagrams Nos 3a and 3b) should be completed by an indication of the commitment appropriations of the dissociated credits and the total appropriations for commitment.

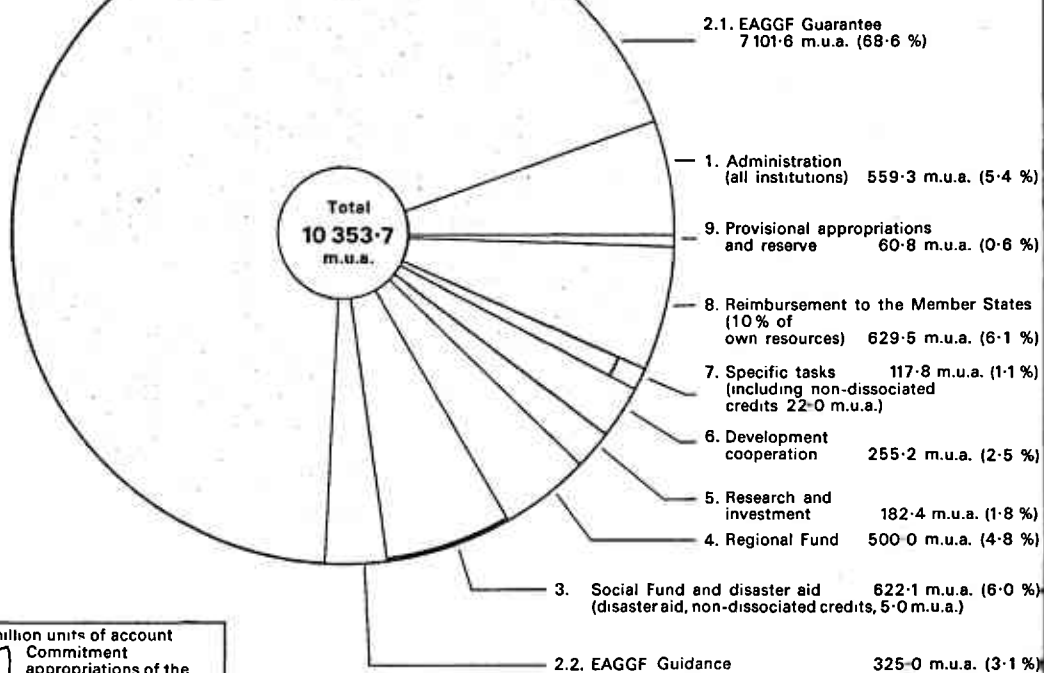
Commitment appropriations of the dissociated credits 1 720·3 m.u.a.

Breakdown of commitment appropriations by sector:



Commitment appropriations of the dissociated credits	1 720·3 m.u.a.
+ Non-dissociated credits	8 633·4 m.u.a.
= Appropriations for commitment	10 353·7 m.u.a.

Breakdown of appropriations for commitment by sector:



Key:

- m.u.a. = million units of account
- Commitment appropriations of the dissociated credits
- Non-dissociated credits

Diagram No 3b

8. General budget 1977: Expenditure – Appropriations for payment
(after supplementary and amending budgets)

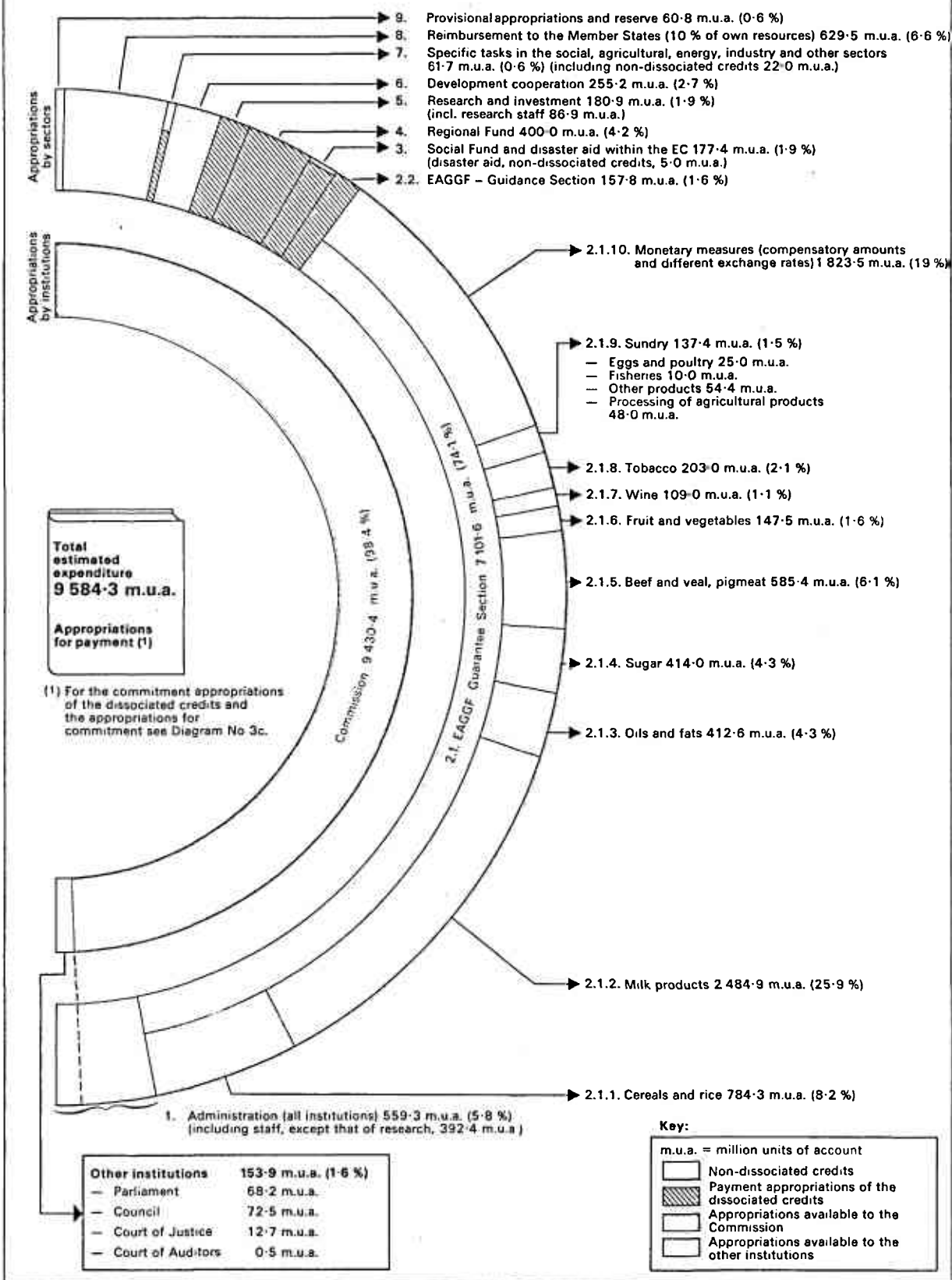


Diagram No 5

11. Summary of the utilization of appropriations available in 1977 and of the actual financing of the financial year 1977

Utilization of appropriations

Key:

— All the amounts are expressed in million units of account (m.u.a.)

— AC Automatic carry-overs

— NAC = Non-automatic carry-overs

— FR = Financial Regulation
of 21. 12. 1977

☐ Non-dissociated credits 1977

 Payment appropriations
of the dissociated credits 1977

Carry-overs from 1976

☐ 1977 commitment appropriations

 Commitment appropriations
remaining at the close of 1976
and commitments released

Commitments

☐ Payments☐ Carry-overs to 1978☐ Commitment appropriations remaining at the close of 1977

Cancellations

Financing

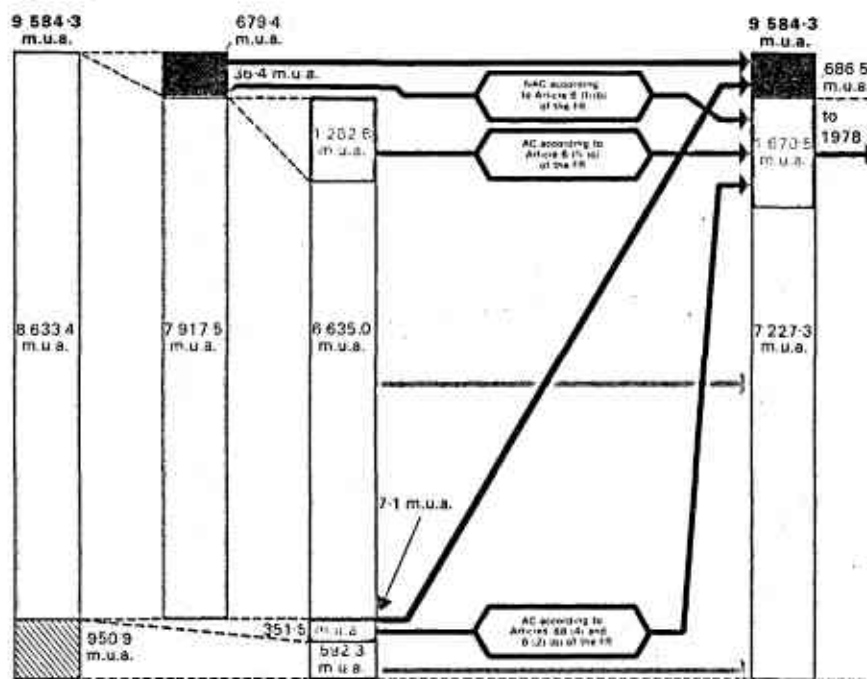
Key:

☐ Actual other revenue

■ Cancellation of carry-overs from 1976

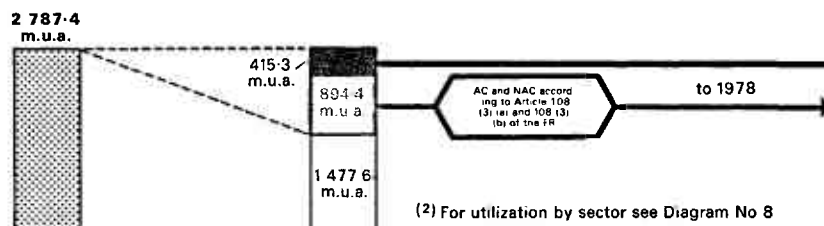
☐ Net sum to be financed by own resources and financial contributions

A Global utilization of appropriations for payment of 1977 budget (1)

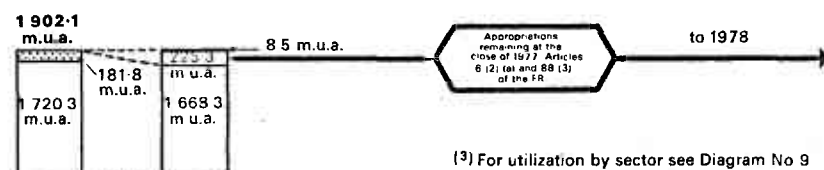


(¹) For utilization by sector see Diagram No 7

B Global utilization of appropriations for payment carried over from 1976 (2)



(2) For utilization by sector see Diagram No 8

C Global utilization of commitment appropriations available in 1977 ⁽³⁾

(³) For utilization by sector see Diagram No 9

8 897-8
m.u.a.

Total to be financed in 1977: Payments from 1977 appropriations plus carry-over of 1977 appropriations to 1978	414 5 m.u.a	283 0 m.u.a	6 200 0 m.u.a	Net sum to be financed by own resources and financial contributions	For breakdown of this sum by type of resource and by Member State see Diagram No 6
--	----------------	----------------	------------------	--	---

Deduction of actual other revenue (4)

Deduction of
cancellation
of carry over

(4) Actual other revenue comprising:

- Surplus from 1976 40·5 m.u.a.
- Contributions of the Member States to supplementary EAEC programmes 8·7 m.u.a.
- ECSC contribution 18·0 m.u.a.
- Deductions from remuneration 65·8 m.u.a.
- Miscellaneous revenue 151·5 m.u.a.
- [Cancellations of entitlements established 1·5 m.u.a.]

(5) Not including EAGGF
Guidance cancellations
before 1973: 0.8 m.u.a.

10. Synopsis of the appropriations available in 1977

(in million u.a.)

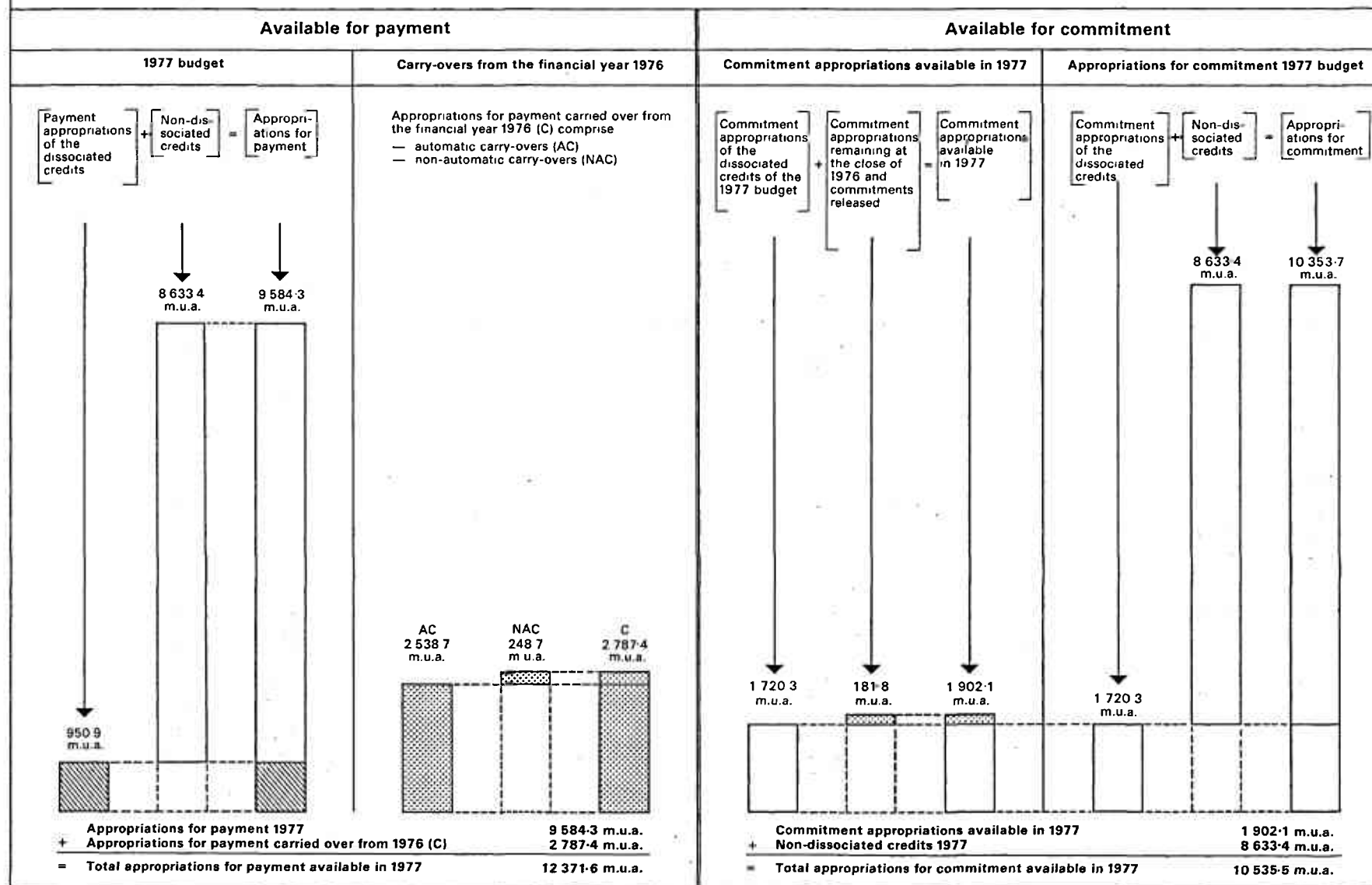


Diagram No 7

13. Utilization of appropriations for payment from the 1977 budget - By sector (for detailed figures see Table II)

Key of sectors:

- | | | |
|-------------------------------------|--|--|
| ① Administration (all institutions) | ③ Social Fund and disaster aid within the EC | ⑥ Development cooperation |
| ②.1 EAGGF - Guarantee | ④ Regional Fund | ⑦ Specific tasks |
| ②.2 EAGGF - Guidance | ⑤ Research and investment | ⑧ Reimbursement to the Member States (10 % of own resources) |
| | | ⑨ Provisional appropriations and reserve |

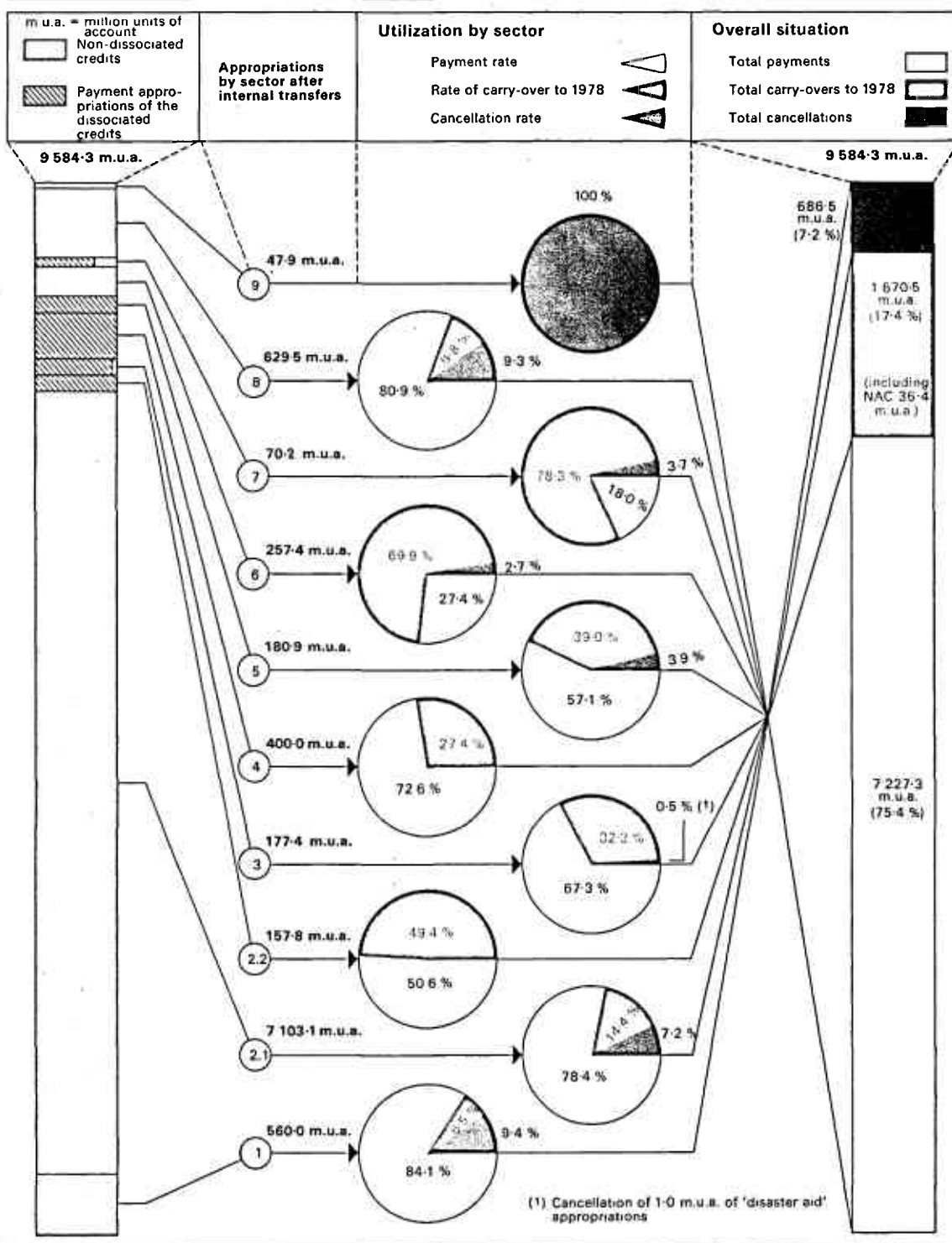


Diagram No 6

12. Breakdown by type of resource and by Member State of the net sum to be financed in 1977

Key:  Total of own resources and financial contributions
 Own resources
 Customs duties
 Agricultural levies
 Sugar levies
 Financial contributions
m.u.a. = million units of account

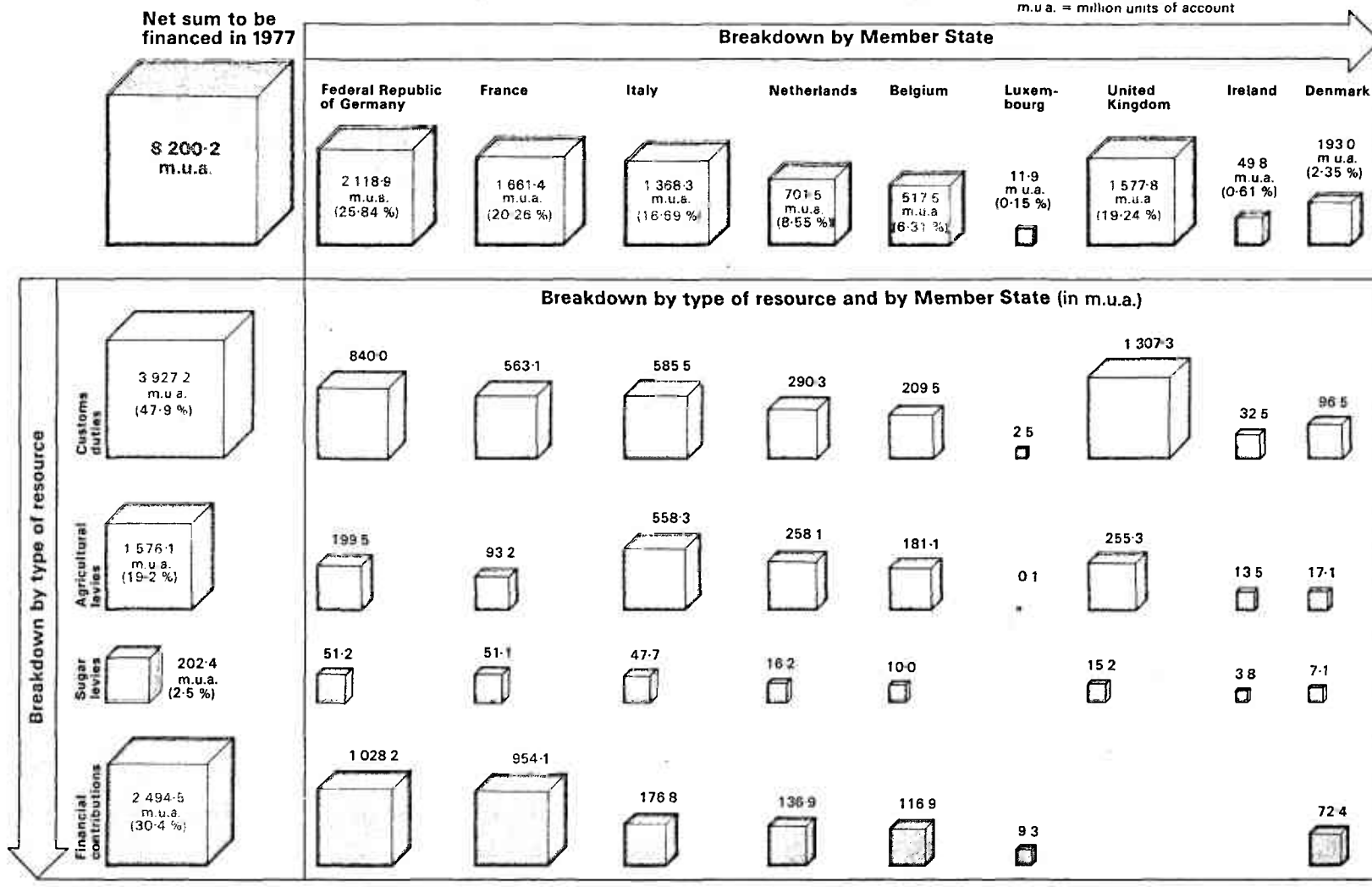


Diagram No 9

15. Utilization of commitment appropriations of the dissociated credits available in 1977 – By sector (for detailed figures see Table II)

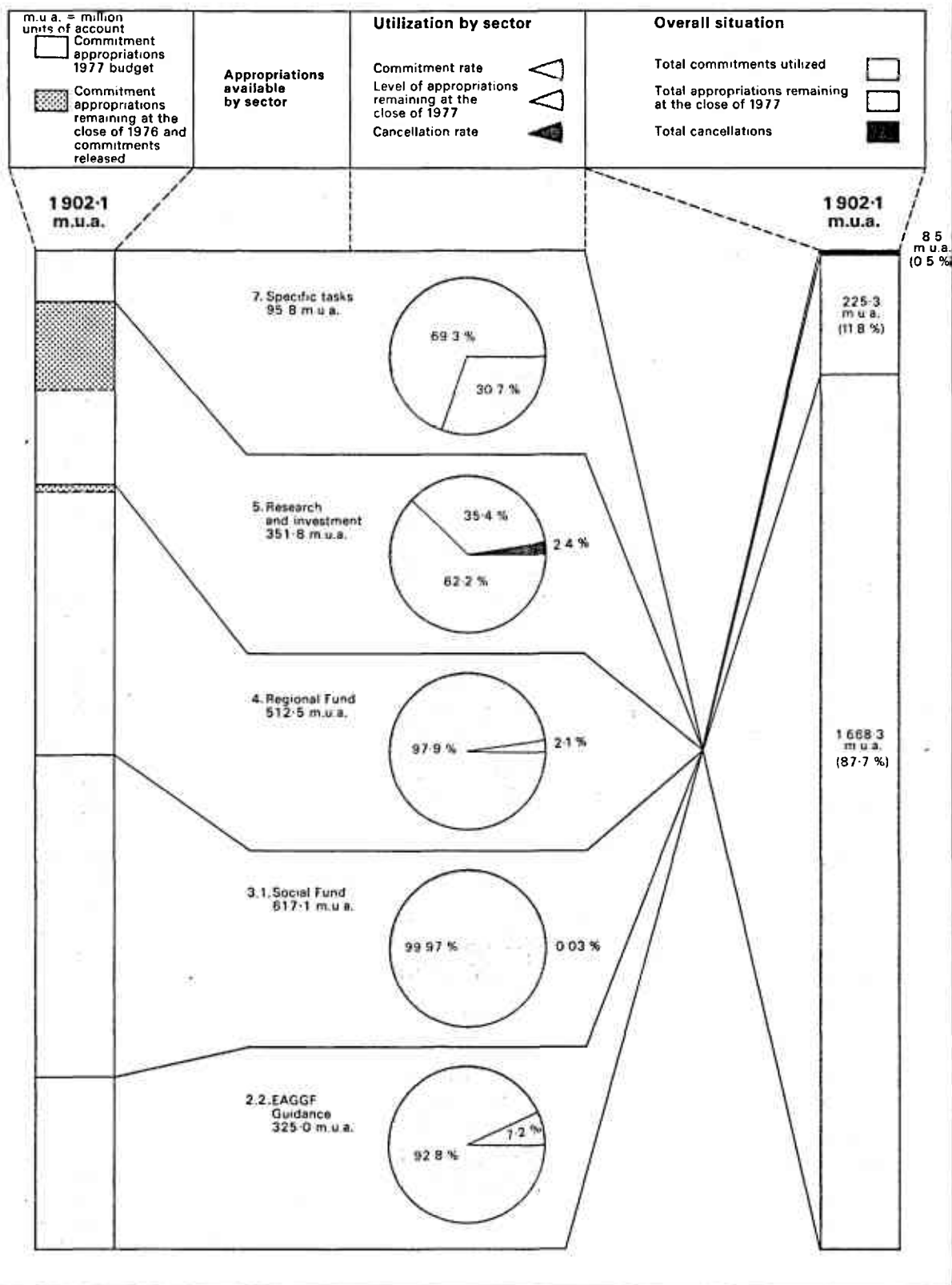
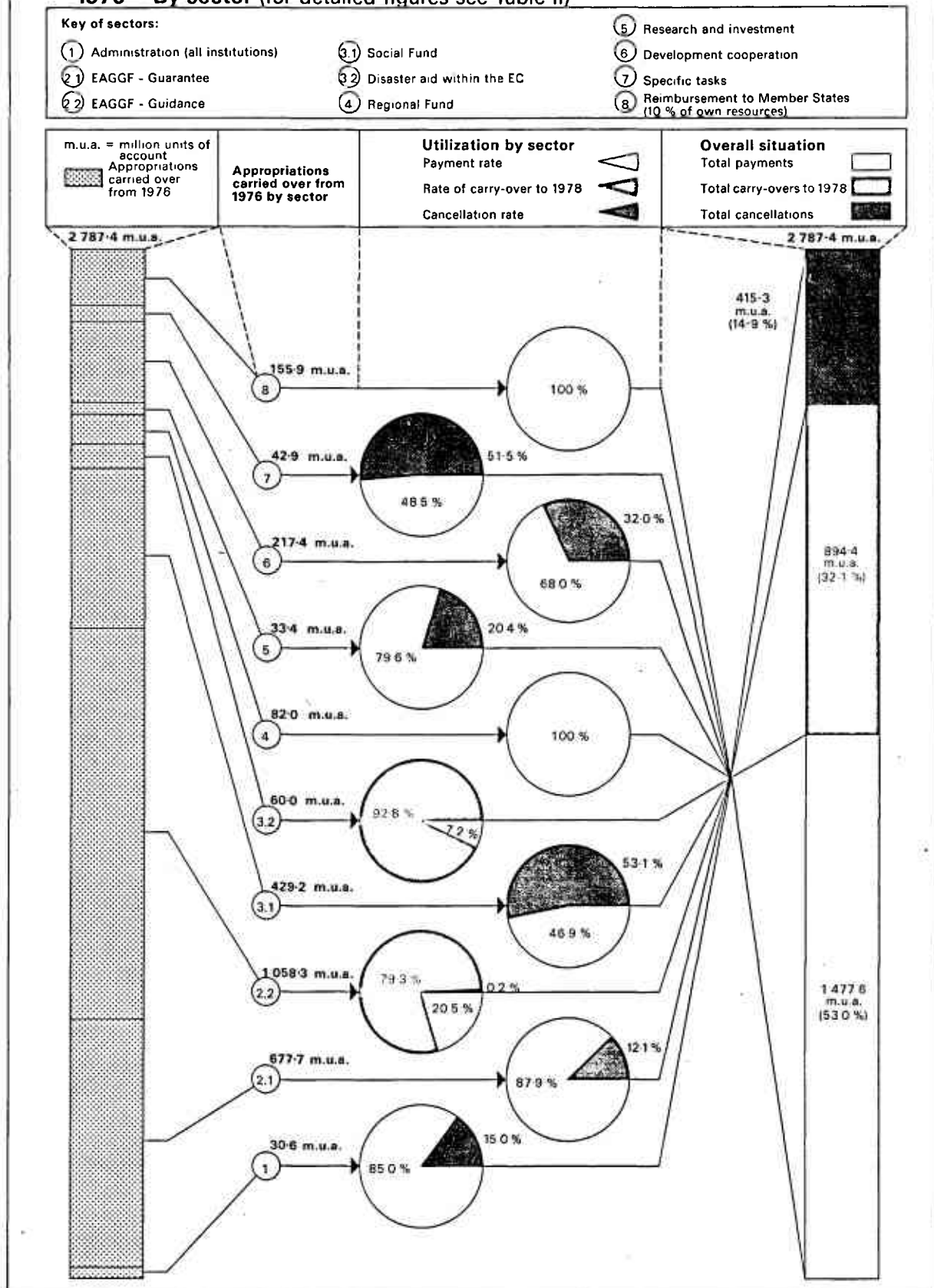


Diagram No 8

14. Utilization of appropriations for payment carried over from the financial year 1976 - By sector (for detailed figures see Table II)



Part II — The European Development Funds (EDF) (position at 31 December 1977)

17. General information on the four Funds

	First EDF	Second EDF (Yaoundé I)	Third EDF (Yaoundé II)	Fourth EDF (Lomé)
1. Legal basis	Convention provided for under Article 136 of the Treaty of Rome and annexed thereto	Yaoundé Convention I of 20 July 1963 (OJ 93 of 11. 6. 1964)	Yaoundé Convention II of 29 July 1969 (OJ L 282 of 28. 12. 1970)	— Lomé Convention of 28 February 1975 (OJ L 25 of 31. 1. 1976) — Council Decision 76/568/EEC of 29 June 1966 (OJ L 176 of 1. 7. 1976)
2. Financial provisions	— Council Regulation No 5 (OJ 33 of 31. 12. 1958) — Council Regulation No 6 (OJ 33 of 31. 12. 1958) — Commission Regulation No 7 (OJ 12 of 25. 2. 1959) — Commission Regulation No 123 (OJ 79 of 30. 8. 1962)	— Internal Agreement (OJ 93 of 11. 6. 1964) — Council Financial Regulation 64/356/EEC (OJ 93 of 11. 6. 1964) — Commission Regulation No 62/65 (OJ 81 of 11. 5. 1965)	— Council Financial Regulation 71/68/EEC (OJ L 31 of 8. 2. 1971) — Internal Agreement (OJ L 31 of 8. 2. 1971) — Council Regulation 2798/73 of 14 May 1973 (OJ L 288 of 15. 10. 1963)	— Financial Regulation No 76/647/EEC of 27 July 1976 (OJ L 229 of 20. 8. 1976) — Internal Agreement of 11 July 1975 (OJ L 25 of 30. 1. 1976) — Council Decision of 21 April 1975 (OJ L 104 of 24. 4. 1975)
3. — Initial appropriations — Appropriations available (position at 31 December 1977)	581.3 m.u.a. ⁽¹⁾ 570.6 m.u.a.	730.0 m.u.a. ⁽¹⁾ 740.8 m.u.a.	905.0 m.u.a. ⁽¹⁾ 905.2 m.u.a.	3 152.0 MEUA ⁽¹⁾ 3 155.2 MEUA
4. Financing	Contributions from the six Community Member States (before enlargement). For breakdown of contributions see Diagram No 10			Contributions from the nine Community Member States (after enlargement). For breakdown of contributions see Diagram No 10
5. Duration scheduled	5 years 1959-64	5 years + extension 1964-70	5 years + extension 1971-76	5 years + extension 1976-80
6. Nature of aids (see also Diagram No 10)	Grants	Grants and special loans	Grants and special loans	Grants, special loans, risk capital, Stabex
7. Recipient countries and territories (see also Diagram No 14 and Table III)	Associated African States and Madagascar (AASM) and Overseas countries and territories (OCT) and French overseas departments (FOD)			African, Caribbean and Pacific States (ACP) and OCT/FOD
8. Implementation of the EDF	By the Commission of the European Communities			
9. Audit	By the Audit Board until 1976; as from the financial year 1977 by the Court of Auditors of the European Communities			
10. Authority giving discharge	The Council	The Council	The Council	Parliament on the recommendation of the Council
11. Intervention of the European Investment Bank within the framework of the EDF Conventions	—	Loans: 70 m.u.a.	Loans: 100 m.u.a.	Loans: 400 MEUA
12. Remarks	10.7 m.u.a. were transferred from the first to the second Fund			Within the framework of the Lomé Convention the European unit of account was adopted

⁽¹⁾ m.u.a. = million units of account; MEUA = million European units of account. In the following presentations 1 u.a. = 1 ECU.

16. Utilization of appropriations available in 1977 — By sector

Table II

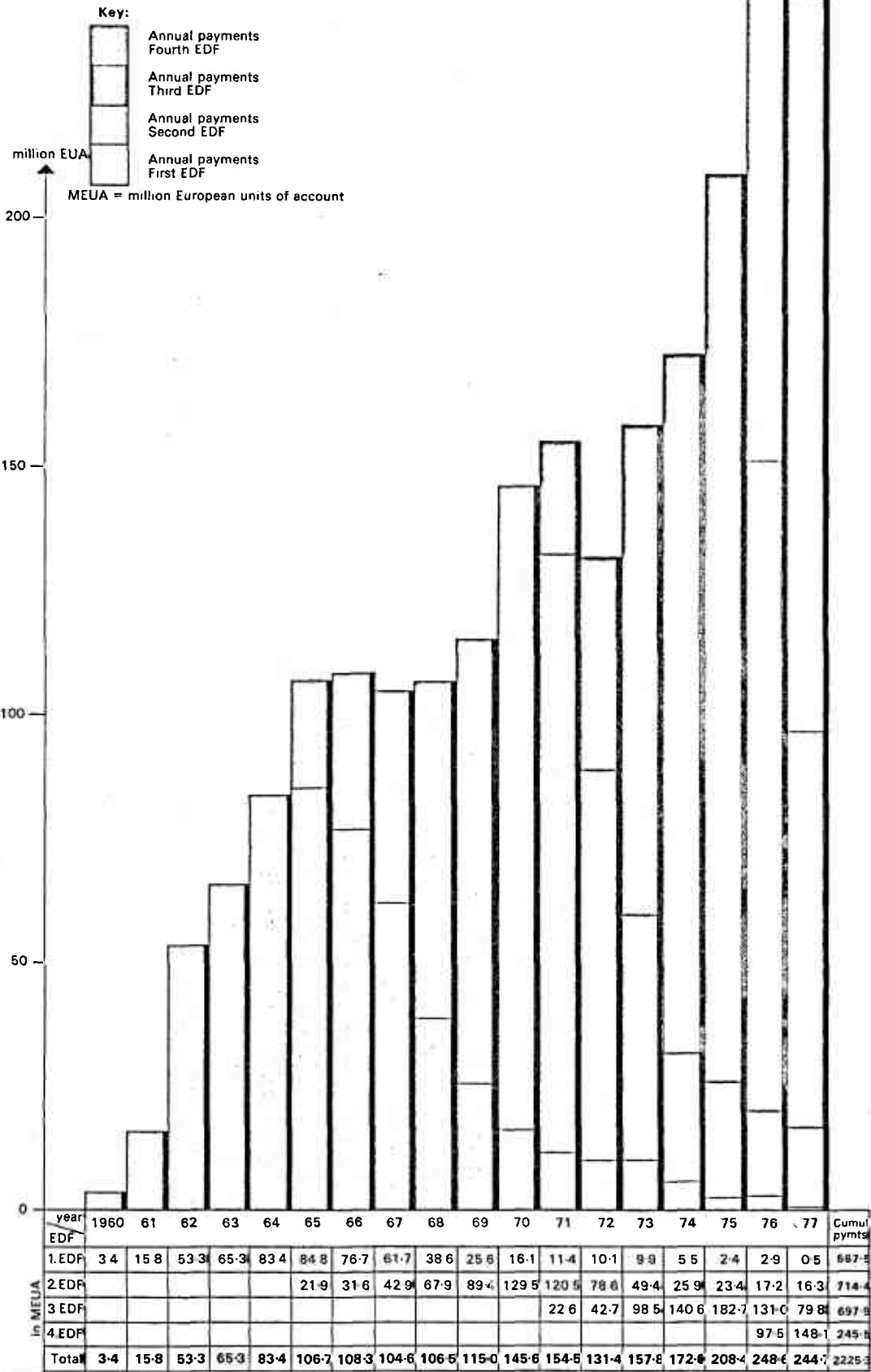
(in million u.a.)

Sector	Utilization	Appropriations for payment of the 1977 budget (non-dissociated credits and payment appropriations of the dissociated credits)								Appropriations for payment carried over from 1976 ⁽²⁾				Commitment appropriations of the dissociated credits					
		Dissociated credits (DC) or non-dissociated credits (NDC)	Budget ⁽¹⁾ 1977	Final ⁽¹⁾ appropriations 1977	Commitments against NDC	Payments against DC and NDC	Carry-overs to 1978			Appropriations carried over from 1976 ⁽²⁾	Payments	Carry-overs to 1978	Cancellations	1977 budget ⁽¹⁾	Commitment appropriations remaining at the close of 1976 and commitments released	Commitment appropriations available in 1977	Commitments utilized	Commitment appropriations remaining at the close of 1977	Cancellations
							Total	Automatic carry-overs	Non-automatic carry-overs										
1. Administration																			
— Commission	NDC	405.4	406.1	373.0	348.3	24.6	24.6	—	33.1	20.9	18.2	—	2.7	—	—	—	—	—	—
— Parliament	NDC	68.2	68.2	60.6	55.4	6.2	5.2	1.0	6.5	3.9	3.2	—	0.8	—	—	—	—	—	—
— Council	NDC	72.5	72.5	61.4	56.6	4.8	4.8	—	11.1	5.2	4.4	—	0.8	—	—	—	—	—	—
— Court of Justice	NDC	12.7	12.7	10.8	10.4	0.5	0.5	—	1.9	0.6	0.3	—	0.3	—	—	—	—	—	—
— Court of Auditors	NDC	0.5	0.5	0.37	0.27	0.15	0.1	0.05	0.08	—	—	—	—	—	—	—	—	—	—
Total (including staff, except that of research)	NDC	559.3	560.0	506.2	471.0	36.3	35.2	1.1	52.7	30.6	26.0	—	4.6	—	—	—	—	—	—
	(NDC)	(392.4)	(392.8)	(351.8)	(347.6)	(4.2)	(4.1)	(0.03)	(41.0)	(3.1)	(2.8)	—	(0.3)	—	—	—	—	—	—
2.1 EAGGF — Guarantee Section	NDC	7 101.6	7 103.1	6 570.0	5 571.0	1 022.8	999.1	23.7	509.4	677.7	595.9	—	81.9	—	—	—	—	—	—
2.2 EAGGF — Guidance Section	DC	157.8	157.8	—	79.9	77.9	77.9	—	—	1 058.3	216.8	838.7	2.8	325.0	—	325.0	301.5	23.5	—
3.1 Social Fund	DC	172.4	172.4	—	115.4	57.1	57.1	—	—	429.2	201.5	—	227.7	617.1	—	617.1	616.9	0.2	—
3.2 Disaster aid within the EC	NDC	5.0	5.0	4.0	4.0	—	—	—	1.0	60.0	4.3	55.7	—	—	—	—	—	—	—
4. Regional Fund	DC	400.0	400.0	—	290.5	109.5	109.5	—	—	82.0	82.0	—	—	500.0	12.5	512.5	501.8	10.7	—
5. Research and investment (including research staff)	DC	180.9	180.9	—	103.3	70.5	70.5	—	7.1	33.4	26.6	—	6.8	182.4	169.3	351.8	218.6	124.6	8.5
	(DC)	(86.9)	(80.6)	—	(78.3)	(0.02)	(0.02)	—	(2.3)	(13.4)	(10.0)	—	(3.4)	—	—	—	—	—	—
6. Development cooperation	NDC	255.2	257.4	246.9	70.6	179.9	176.3	3.6	6.9	217.4	147.9	—	69.5	—	—	—	—	—	—
7. Specific tasks in the social, agricultural, energy, industry, transport and other sectors	DC	39.7	39.7	—	3.3	36.5	36.5	—	—	42.9	20.8	—	22.1	95.8	—	95.8	29.4	66.4	—
	NDC	22.0	30.5	19.8	9.4	18.5	10.4	8.1	2.6	—	—	—	—	—	—	—	—	—	—
8. Reimbursement to the Member States (10% of own resources)	NDC	629.5	629.5	570.6	509.1	61.5	61.5	—	58.9	155.9	155.9	—	—	—	—	—	—	—	—
9. Provisional appropriations and reserve	NDC	60.8	47.9	—	—	—	—	—	47.9	—	—	—	—	—	—	—	—	—	—
Total	NDC	8 633.4	8 633.4	7 917.5	6 635.0	1 319.0	1 282.6	36.4	679.4	—	—	—	—	1 720.3	181.8	1 932.1	1 668.3	225.3	8.5
	DC	950.9	950.9	—	592.3	351.5	351.5	—	7.1	—	—	—	—	—	—	—	—	—	—
	NDC + DC	9 584.3	9 584.3	—	7 227.3	1 670.5	1 634.1	36.4	686.5	2 787.4	1 477.6	894.4	415.3	—	—	—	—	—	—

⁽¹⁾ Including supplementary and amending budgets.⁽²⁾ 1977 Budget + internal transfers = final appropriations 1977.⁽³⁾ No distinction has been made between dissociated and non-dissociated credits in respect of appropriations carried over.⁽⁴⁾ Sum of automatic and non-automatic carry-overs.

Diagram No 11

19. The four Funds: Annual payments (1960-77)



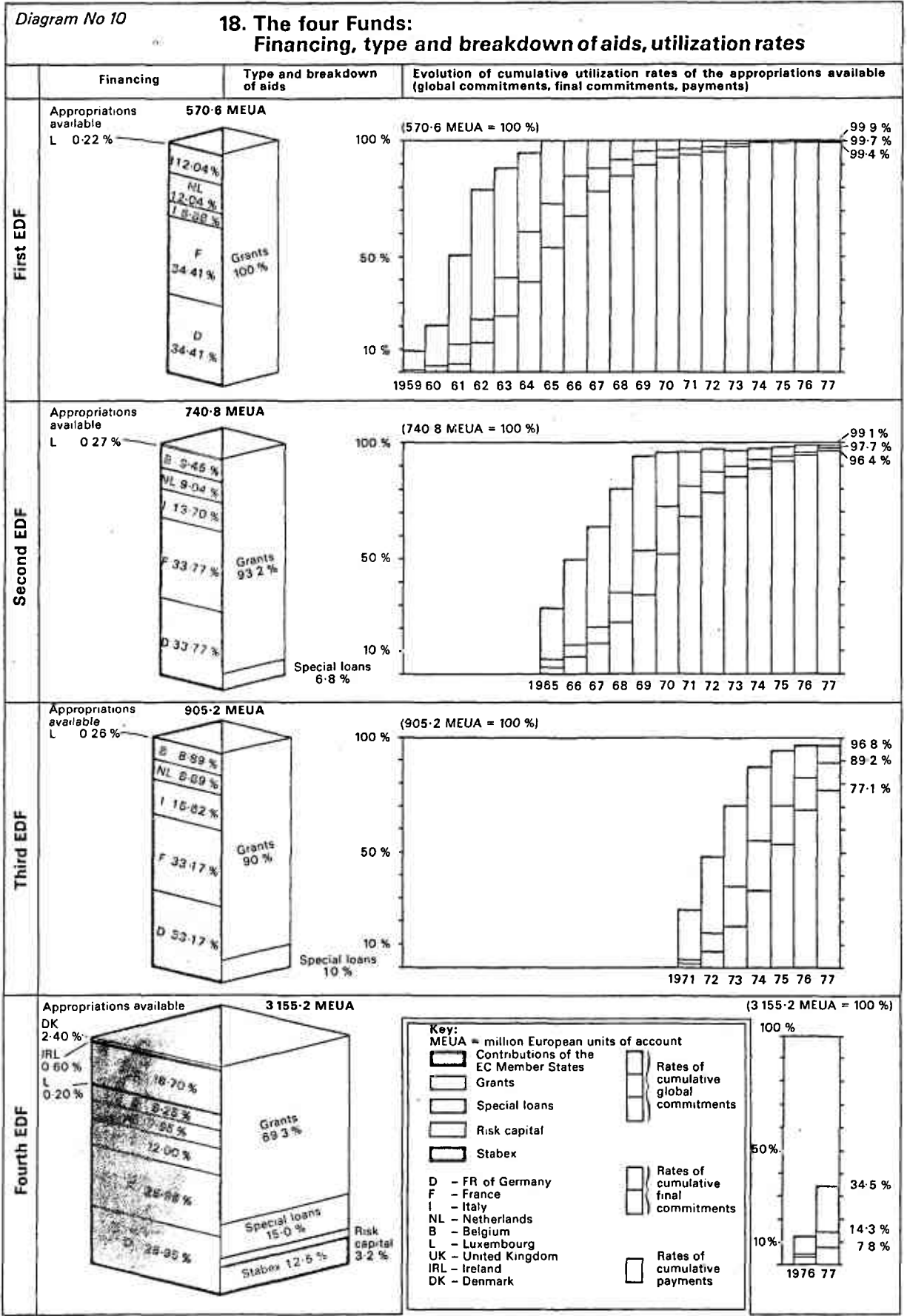
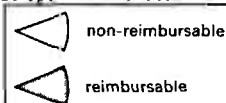


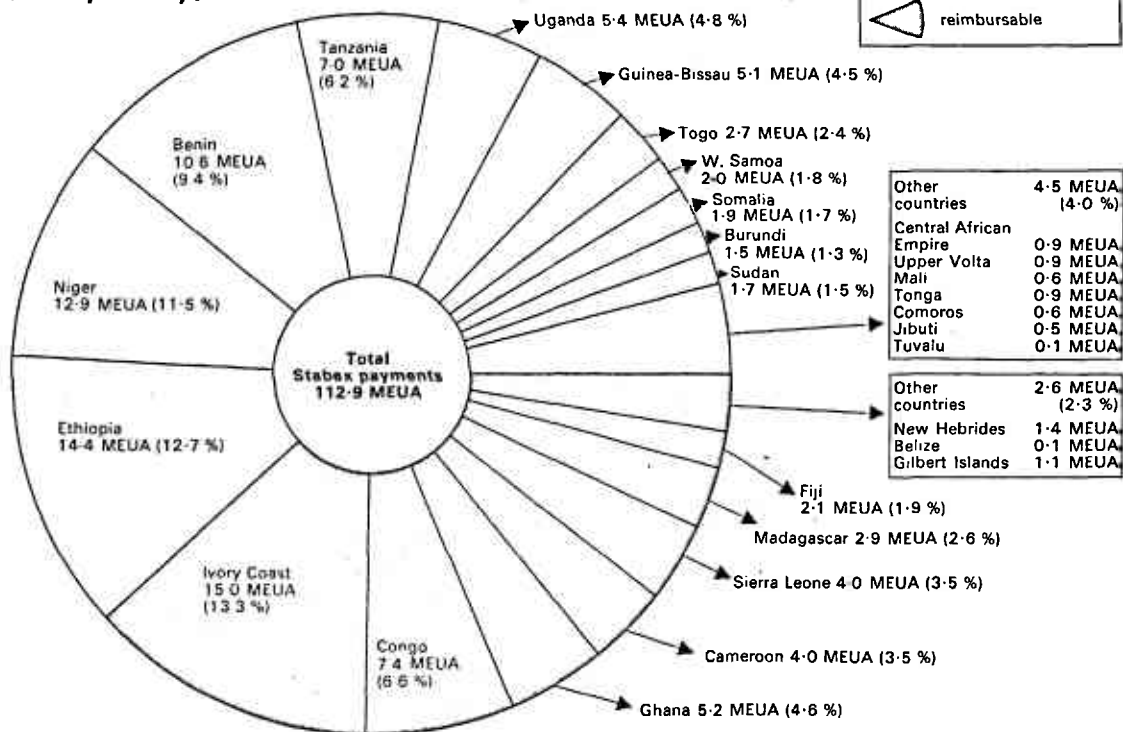
Diagram No 13

21. The fourth Fund – Stabex: Cumulative payments by recipient country and by product (position at 31 December 1977)

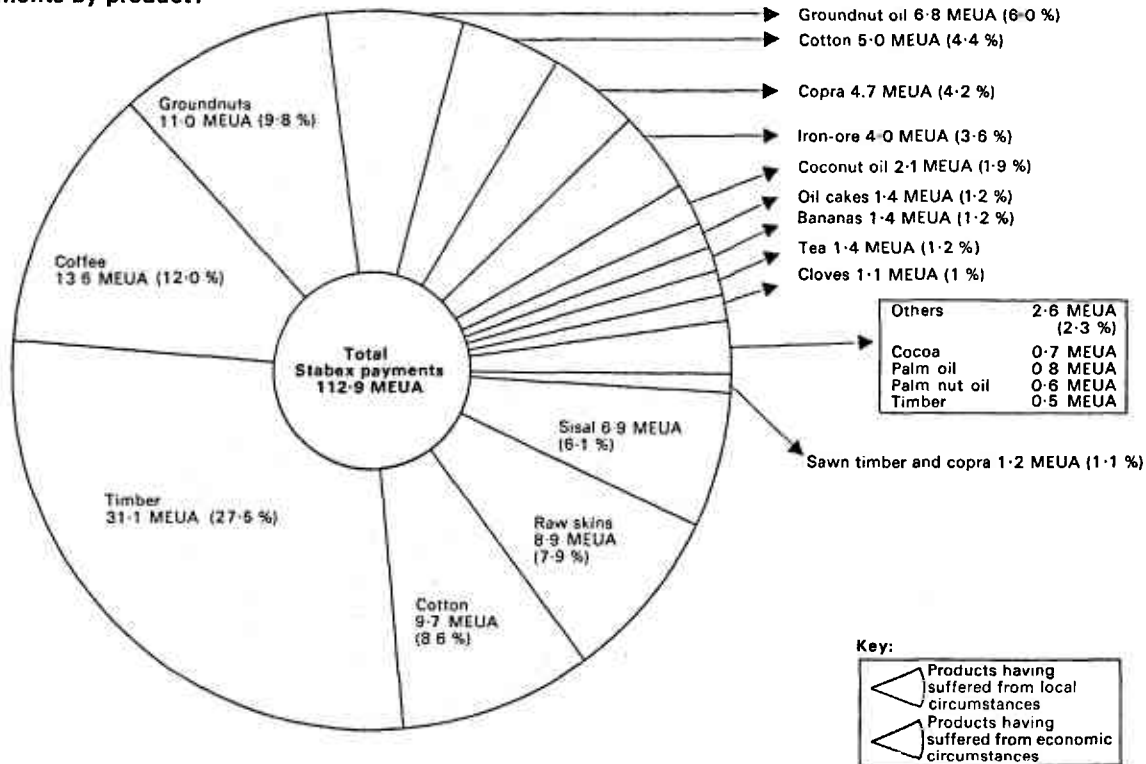
Key:
MEUA = Million
European units of account



Payments by country :



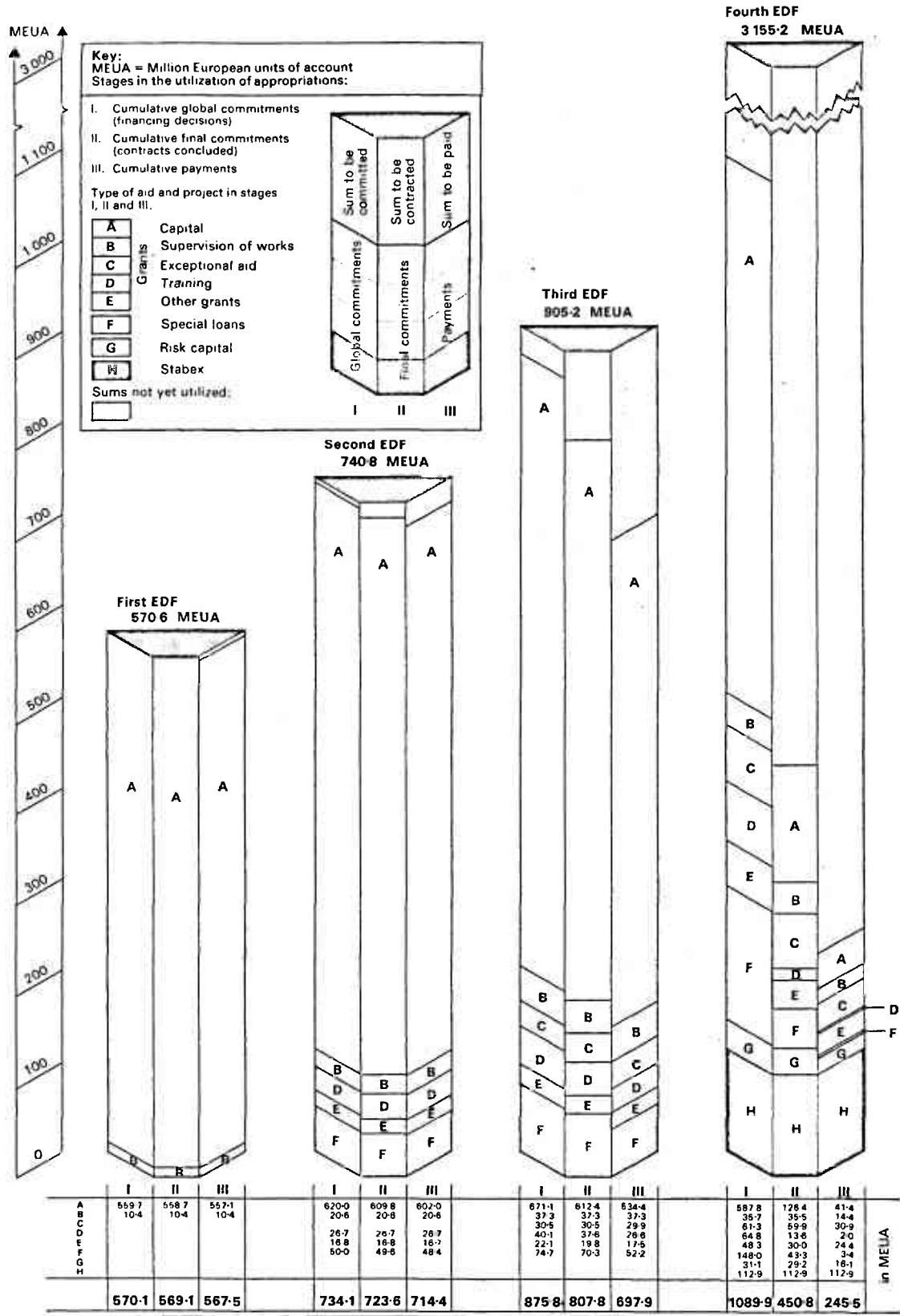
Payments by product :



Key:
Products having
suffered from local
circumstances
Products having
suffered from economic
circumstances

Diagram No 12

20. The four Funds: Utilization of appropriations by type of aid and project (position at 31 December 1977)



23. The four Funds: Breakdown of cumulative global commitments and cumulative payments by recipient country
(position at 31 December 1977)

Table III

(in million EUA)

Total aid for ACP countries and OCT/FOD							Aid for countries which only benefit from the fourth EDF		
Countries	Cumulative payments					Cumulative total commitments of the four EDFs	Countries	Cumulative payments of the fourth EDF	Cumulative global commitments of the fourth EDF
	First EDF	Second EDF	Third EDF	Fourth EDF	Total				
Madagascar	56.4	67.4	49.1	4.0	176.9	222.1	Bahamas	—	0.3
Ivory Coast	39.7	57.9	50.2	19.5	167.3	190.5	Barbados	0.3	1.2
Cameroon	52.1	53.2	50.2	10.7	166.2	191.7	Botswana	1.1	10.5
Senegal	42.8	60.4	53.8	3.2	160.2	206.1	Ethiopia	15.2	62.4
Zaire	18.0	78.7	47.9	9.8	154.4	207.3	Fiji	2.2	2.4
Niger	31.1	31.4	44.7	30.7	137.9	179.4	Gambia	0.1	3.6
Mali	42.3	33.7	45.4	6.1	127.5	162.1	Ghana	6.9	31.2
Upper Volta	29.5	30.7	41.8	9.8	111.8	137.6	Grenada	0.0 ⁽¹⁾	0.3
Chad	28.4	33.1	33.3	9.4	104.2	144.6	Guinea-Bissau	5.8	16.0
Congo	24.5	20.7	22.0	9.0	76.2	100.7	Guinea	0.2	18.7
Benin	20.2	22.0	20.9	11.2	74.3	102.8	Equatorial Guinea	—	0.0 ⁽¹⁾
Central African Empire	16.7	27.5	27.1	2.1	73.4	86.2	Guyana	0.1	2.2
Somalia	9.8	26.9	28.0	6.4	71.1	108.0	Jamaica	0.8	14.2
Togo	15.6	20.0	26.0	5.5	67.1	94.5	Kenya	6.1	42.1
Burundi	5.0	21.0	29.3	4.0	59.3	83.4	Lesotho	0.7	8.0
Mauritania	15.4	17.9	22.3	3.5	59.1	72.8	Liberia	0.3	18.3
Gabon	17.5	21.0	19.4	0.4	58.3	68.3	Malawi	4.6	36.4
Rwanda	5.1	21.2	29.0	2.6	58.0	119.5	Nigeria	0.1	0.9
Surinam	16.9	13.0	6.2	0.3	36.4	50.0	Uganda	5.7	9.0
Algeria	24.8	—	—	—	24.8	26.0		2.0	2.5
Comoros	3.3	2.6	3.7	1.1	10.7	15.6	Sierra Leone	4.2	15.8
Jibuti	1.2	1.9	1.4	0.5	5.0	6.6	Sudan	2.4	22.0
West Irian	4.1	—	—	—	4.1	4.1	Swaziland	1.7	6.1
Mauritius	—	—	0.8	1.2	2.0	20.7	Tanzania	8.4	64.9
Aid to the benefit of several countries	2.2	8.4	13.1	13.5	37.2	102.3	Tonga	1.0	1.4
Countries which only benefit from the fourth EDF	—	—	—	77.7	77.7	420.4	Trinidad and Tobago	0.2	4.4
OCT / FOD	44.9	43.8	32.3	3.3	124.3	146.6	Zambia	7.6	25.6
Total	567.5	714.4	697.9	245.5	2 225.3	3 269.9	Total	77.7	420.4

⁽¹⁾ 0.0 indicates less than 0.05.

Diagram No 14

22. The four Funds: Breakdown of cumulative global commitments and cumulative payments by recipient country (for detailed figures see Table III)

Million EUA

230
220
210
200
190
180
170
160
150
140
130
120
110
100
90
80
70
60
50
40
30
20
10
0

Total payments: 2 225.3 MEUA
Total global commitments: 3 269.9 MEUA

Key: MEUA = million European units of account

- Cumulative global commitments not yet paid (total of four EDFs)
- Cumulative payments Fourth EDF
- Cumulative payments Third EDF
- Cumulative payments Second EDF
- Cumulative payments First EDF

420.4 MEUA

Recipient countries

Madagascar
Ivory Coast
Cameroon
Senegal
Zaire
Niger
Mali
Upper Volta
Chad
Congo
Benin
Central African Empire
Somalia
Togo
Burundi
Mauritania
Gabon
Rwanda
Surinam
Algeria
Comoros
Jibuti
West Irian
Mauritius
Aid to the benefit of several countries
Countries which only benefit from 4th EDF
OCT/FOD

Table III (continued)

(in million EUA)

Aid for OCT/FOD						
Countries	Cumulative payments					Cumulative global commitments of the four EDFs
	First EDF	Second EDF	Third EDF	Fourth EDF	Total	
<i>French</i>						
Réunion	8.9	9.2	7.4	0.1	25.6	27.3
Guadeloupe	4.4	4.7	5.7	0.1	14.9	15.1
Martinique	6.7	3.6	4.4	0.1	14.8	14.9
Polynesia	4.4	0.9	2.8	—	8.1	8.1
New Caledonia	2.2	4.0	1.5	0.0 ⁽¹⁾	7.7	8.7
French Guiana	1.9	2.9	2.5	—	7.2	9.2
Saint Pierre and Miquelon	3.0	0.6	0.0 ⁽¹⁾	—	3.6	3.6
Wallis and Futuna	—	0.6	0.7	0.0 ⁽¹⁾	1.3	1.4
New Hebrides	—	—	—	0.7	0.7	0.7
French total	31.5	26.4	25.0	1.1	83.9	89.1
<i>Netherlands</i>						
Netherlands Antilles	13.4	17.4	7.3	0.3	38.4	49.7
<i>British</i>						
Gilbert Islands	—	—	—	1.1	1.1	1.1
New Hebrides	—	—	—	0.7	0.7	0.7
Belize	—	—	—	0.1	0.1	0.1
Tuvalu	—	—	—	0.1	0.1	0.1
Associated States in the Caribbean	—	—	—	0.0 ⁽¹⁾	0.0 ⁽¹⁾	5.9
British total				2.0	2.0	7.9
Total	44.9	43.8	32.3	3.3	124.3	146.6

Countries which have not yet benefited:*ACP countries*

Cape Verde

Seychelles

Papua New Guinea

Sao Tomé and Príncipe

British OCT

Brunei

Falkland Islands

Pitcairn Islands

Solomon Islands

Virgin Islands

Cayman Islands

Montserrat

St Helen

Turks and Caicos Islands

⁽¹⁾ 0.0 indicates less than 0.05.

ANNEX II

THE EUROPEAN PARLIAMENT

Replies to the comments of the
Court of Auditors concerning the financial year 1977

Chapter 8 — Staff expenditures

Paragraphs 8.4 to 8.11

Parliament is perfectly willing to review with the other institutions and at the initiative of the Commission, the conditions for granting this allowance.

Chapter 9 — Operational expenditure

Paragraph 9.3

Parliament has still to be consulted by the Commission, on the procedure for implementation of the new Financial Regulation. Meanwhile, it considers that the implementing Regulation of 30 June 1975 is still valid to the extent that it remains compatible with the provisions of the new Financial Regulation.

Paragraph 9.4

Rationalization of the accounting systems and corresponding forms might be envisaged — Parliament being ready to work towards that end with the other institutions — to the extent that the use of different types of accounting machines in the institutions is not an obstacle to the desired standardization.

Paragraph 9.9

More accurately: the refusal by the Financial Controller to give his endorsement is attributable to the fact that major alteration works with substantial repercussions on the rent were carried out at the request of Parliament, but without a prior procedure to commit the corresponding funds against rental, and thus without any possibility for the financial control department to intervene in respect of a whole series of measures which generate expenditure.

Pending submission of the detailed figures which the Luxembourg administration has been asked to provide, Parliament is paying the original rental to that administration on the basis of quarterly instalments.

Paragraph 9.10 (ii)

The two relocatable buildings on which a hire-purchase contract was taken out in Strasbourg in 1973 to cover Parliament's increased need for premises, became the property of Parliament after payment of the seventh half-yearly instalment, stipulated in the contract. Under the terms of the contract, Parliament could have returned the buildings to the supplier at a specified price but — given the level of that price — considered it preferable to retain them, especially as new use could be made of them.

It will be noted that the budgetary authority treated this operation as a rental, and not as the acquisition of a building against payment of instalments, since the necessary appropriations were entered each year against Item 2100 'Rental'.

Paragraphs 9.11 to 9.16

To ensure rational and supervised use of its telephones, Parliament has for a long time been applying effective economy measures as is shown in Table 3. It should be noted that:

- open lines have been allocated on a strictly limited basis and are locked outside office hours;
- lines reserved for Members of Parliament are opened only 30 minutes before and after each sitting and remain under the supervision of ushers at those times.

Chapter 9 — General conclusions*Paragraphs 9.23 to 9.26*

Parliament proposes to take the fullest possible account of the remarks made and, with that end in view, will ask — through its representative on the Committee of Heads of Administration — for a detailed, joint examination of all the observations.

ANNEX III**THE COUNCIL****Replies to the comments of the
Court of Auditors concerning the financial year 1977****Chapter 8 — Staff expenditure**

- Paragraphs 8.4 to 8.11 Persons treated as dependent children
- The Council takes note of the Court's opinion that the rules for granting this allowance should be clarified and is asking the Commission to examine whether alterations should be made.
- Paragraphs 8.17 to 8.22 Allowances under Articles 56a, 56b and 100 of the Staff Regulations — Reports to the Council
- The Council is asking the Commission to submit to it in future the reports referred to in Regulations Nos 1799/72 and 495/77

Chapter 9 — Operational expenditure

- Paragraphs 9.3 to 9.8 Application of budgetary control
- 9.3 The Council shares the Court's opinion that the implementing rules to the Financial Regulation of 21 December 1977 should be prepared as quickly as possible in accordance with Article 106 of the Financial Regulation.
- 9.4 It is also of the opinion that the abovementioned rules would be implemented more effectively if common procedures were adopted by the institutions.
- 9.5 The Council has drawn the attention of its departments to these comments by the Court of Auditors and suggests that the Commission investigate ways and means of meeting these objections.

- 9.6 An exchange of information between the institutions on subsidies granted to various societies and associations should be envisaged in due course on the Commission's initiative, bearing in mind the constraints of the budget timetable.
- Paragraphs 9.11 and 9.12 Telephone calls — General
- 9.11 Charging
- In the Council's case only rates, call charges and telegram and telex costs are charged to Item 2311.
- Repair and maintenance costs, etc. are charged to other budget headings.
- 9.12 With regard to the average expenditure per Council employee over the last three financial years, it should be pointed out that telex costs alone accounted for 31 % of the total figure charged to item 2311 while 20 % of telephone expenditure is for calls made on direct lines allocated to delegations.
- The average cost per Council employee is therefore considerably lower than that shown in Table 35.
- However, in response to this comment by the Court of Auditors the Council will draw the attention of its internal departments and of delegations to the need for rational use of the Council Secretariat's telephone system.
- Paragraphs 9.13 to 9.16 Telephone calls — private
- It should be noted that of the 76 telephones cleared for international and non-local calls (point 9.14 of the comments 19 are allocated to the Permanent Representations of the Member States, 2 to the Commission and 2 to the ACP Secretariat.
- It is the Council's view that surveillance of access to these telephones could give rise to political problems. It nonetheless intends to instruct a working party to investigate technically feasible and politically acceptable means of surveillance. It will in any event draw the attention of its departments and of delegations to the Court's comment.
- Paragraphs 9.18 to 9.23 Study contracts
- The Council has concluded study contracts with an architects office (43 392 u.a.) and a technical bureau (14 932 u.a.).
- In the case of certain work prior contact had to be made with these organizations before commitment to the expenditure on account of the scale of the problems to be studied.
- Paragraph 9.24 The Council would like the Court, together with the *two* budget authority bodies, to seek the most effective means of ensuring that these comments on study contracts are taken into account and followed in practice.

ANNEX IV

THE COMMISSION

**Replies to the comments of the
Court of Auditors concerning the financial year 1977**

(Articles 78f (ECSC), 206a (EEC), 180a (Euratom))

31 October 1978

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Part I — The budget of the Communities

INTRODUCTION

The Commission has acquainted itself with the first Report of the Court of Auditors which, despite certain initial physical problems, the Court succeeded in presenting within the time limits laid down in the Treaties. The Commission appreciates the special effort thus made by the Court of Auditors in its first year in operation.

It is perhaps worth pointing out here that the functions of the Court of Auditors form part of a full Community monitoring system which includes internal audit, external audit and the auditing function of the Budgetary Authority. Internal audit in each institution is the responsibility of a financial controller who performs his functions in complete independence and is answerable to his institution alone. On-the-spot inspections in the Member States — which are constantly increasing in number and will continue to do so — are carried out by the Commission departments responsible for the expenditure in question (the authorizing officer), by the Financial Controller and the Court of Auditors.

The Court of Auditors is responsible for external audit; revenue is audited on the basis of both establishments and payments, expenditure on the basis of both commitments and payments.

The third form of audit, which is political in its nature, rests with Parliament which gives the Commission discharge on a recommendation from the Council. Without neglecting the execution of financial operations in due and proper order, Parliament is more particularly concerned with their political and economic appropriateness and the quality of management.

The Court of Auditor's role within this whole system is important. The Commission has shown its desire to establish a relationship based on mutual trust, understanding and respect.

It is in this spirit that the Commission has drawn up these replies to the Court of Auditor's comments concerning the financial year 1977.

Chapter 1 — General comments

Preliminary remarks

The Commission is fully aware of the scope and importance of the powers of the Court of Auditors under the Treaty of 22 July 1975 and is prepared to cooperate closely with it. With regard to the supply of documents and information, the Commission is prepared as it has shown on a number of occasions to listen with an open mind to any specific request. The Treaty of 22 July 1975 restricts such supply of documents and information to that necessary to the fulfilment of the tasks of the Court of Auditors. This is an objective condition open to interpretation by all the Community institutions and, in the last resort, to a ruling by the Court of Justice.

(With regard to the publication of the Court of Auditor's Report, the Treaty of 22 July 1975, in particular paragraph 4 of Article 78f and Article 78g (ECSC), paragraph 4 of Article 206a and Article 206b (EEC) and paragraph 4 of Article 180a and Article 180b (EAEC) stipulates that the report must be accompanied by replies from the Community institutions to the comments made by the Court of Auditors. In the Commission's opinion, this rules out any counter-reply by the Court of Auditors to the institutions' replies for such counter-reply constitutes a fresh comment. Compliance with the Treaty requires the Court of Auditors to permit institutions to reply to it or that it should cease to include counter-replies in the Annual Report. The Court of Auditors cannot set itself up as judge of the replies. This is for Parliament alone, as part of the process of giving discharge.)

If the Court of Auditors considers that the time allowed it to formulate its remarks is too short, the Commission — for its part — would reiterate that it has no more than two months to prepare its accounts, since many important data (EAGGF Guarantee Section) are not available until after 31 March.

The Court of Auditors devotes much of its attention to the problem of preventing fraud prejudicial to Community finances. The Commission understands that the Court wishes to improve the efficacy of the various systems of control operated not only within Community institutions but also within all national paying agencies which are variously involved in the implementation of Community policies. The Commission is always open to suggestions in this area

and to any other ideas which might help stamp out fraudulent practices perpetrated while Community policies are being carried out.

Unit of account and rate of exchange

The Commission would point out that, as far as the common agricultural policy is concerned, agricultural prices or other forms of aid expressed in units of account are converted into national currencies using representative exchange rates (more commonly known as 'green rates') which approximate to market rates.

The financial transactions carried out by the intervention agencies in administering the common agricultural policy are translated by the Community into units of account at the representative rates for booking to the different budgetary headings of the EAGGF Guarantee Section.

But the budget is expressed in budgetary units of account. Consequently, expenditure and revenue arising from the application of two different exchange rates are entered under a specific heading, namely Article 790 'Gains and losses on exchange resulting from the application of different exchange rates'.

Accounting practices

As to the comments on accounting practices, the Commission is surprised by the harshness of the criticism voiced by the Court of Auditors which it does not consider to be warranted. The Commission simply continued in 1977 to apply its system of accounting and of presenting its balance sheet — a system, developed in recent years, which never met with any criticism from the Audit Board. The Commission has 'endeavoured to supply as much information as possible to the Budgetary Authority. To this end, detailed balance sheets for each Community institution have been submitted separately. Each balance sheet also shows the balances outstanding between institutions. To complete this information the Commission combined these balances to give a synthetic balance sheet which sets out, by heading, the data from each of the separate balance sheets. To facilitate the audit carried out by the Court of Auditors, the Commission thinks that it must continue to produce a balance sheet for each institution: in this context, the Commission would emphasize its concern to provide the budgetary authority with the fullest possible information on budgetary revenue and expenditure by presenting accurate and detailed accounts in accordance with the Financial Regulation. The revenue and expenditure accounts contain — among other things — information on the trend and utilization of budgetary revenue and appropriations

and on all budgetary expenditure incurred during the relevant financial year.

The Commission is prepared to consider the suggestion put forward by the Court of Auditors regarding the presentation of a consolidated balance sheet. It cannot, however, take a unilateral decision on the standardization of accounting principles applied to the accounts of other institutions. Furthermore, the Commission is not empowered to give an opinion on accounting practices in the other institutions.

The Commission would point out that the EUA was not yet applied to the general budget of the Communities in 1977; the remarks of the Court of Auditors therefore concern only conversions to u.a.

As required by the Financial Regulation in force in 1977, the Commission applied to all budget transactions the fixed conversion rates corresponding to the parity of each currency declared to the International Monetary Fund.

Faced with the ever-increasing gap between the official parities and actual values of currencies, the Commission decided to use — with effect from 1 November 1974 — updated exchange rates for the reimbursement of certain expenses to its staff. The intention was to reimburse the expenses actually incurred while avoiding any disparities arising from the currencies used and the place of employment of staff.

On the subject of stock and fixed asset accounts, the Community institutions have always drawn up balance sheets and attached them to the annual revenue and expenditure accounts in accordance with the provisions of earlier Financial Regulations. The same has been done for the 1977 accounts in accordance with the new Financial Regulation which has not changed the requirements in this respect. In the Commission's view, the nature of a balance sheet is determined by the nature of the accounting system and should not show an asset or a liability which is not reflected in the accounts. The balance sheets do not, therefore, show the value of certain capital assets, such as buildings and office furniture, because the expenditure on them is current budgetary expenditure as provided for in the Financial Regulation. It is not posted to a capital asset account and the depreciated over a number of years but is written off in the year of purchase.

On the other hand, the Commission does keep permanent inventories of all movable and immovable property in accordance with the Financial Regulation (Title IV — Section II). In addition to the revenue and expenditure accounts and financial balance sheets relating to budgetary operations for the

financial year 1977, the Commission sent to the Budgetary Authority and the Court of Auditors a summary statement, by value and number, of the abovementioned inventories; this is a computer-produced document of some 40 000 pages which can be consulted at any time.

Chapter 2 — The EAGGF — Guarantee Section

As the policy to support the agricultural markets is the only fully-integrated policy paid for entirely out of the Community budget, its cost naturally accounts for the largest share of the budget funds.

All in all, expenditure on supporting agricultural markets amounted to 6 662.4 million EUA in 1977, an increase of 19.6 % over expenditure in this section during 1976.

Expenditure on export refunds to cover the price difference between the Community market and the world market accounted for about 40 % of this total.

Expenditure on intervention in the internal market accounted for about 45 %. This consisted of:

- (i) 'first category' expenditure where unit amounts of expenditure are standardized by Community regulations (e.g. aids for private storage, production refunds to encourage industry to use Community products, aids to producers of olive oil, etc.);
- (ii) 'second category' expenditure, connected with the buying-in, storage, processing and marketing of the product.

Under this heading, the EAGGF — Guarantee Section — pays:

- (a) this difference between the purchase price and the intervention selling price of the product;
- (b) expenditure on large-scale storage operations (putting into and taking out of storage, time in storage);
- (c) interest on the value of products out of circulation.

EAGGF Guarantee Section expenditure on the different products breaks down as follows:

- Milk and milk products: 38.2 %
- Cereals: 8.8 %
- Sugar: 8.0 %
- Beef and veal: 6.2 %
- Oils and fats: 4.6 %
- Tobacco: 3.1 %
- Fruit and vegetables: 2.8 %
- Wine: 1.4 %
- Monetary compensatory amounts: 12.9 %
- Expenditure resulting from the application of different exchange rates: 7.6 %
- Other: 6.4 %

As far as management is concerned, the implementation of the rules on the common agricultural policy results in a wide variety of operations involving large numbers of people both in the public and the private sectors. Financial management is decentralized in so far as payments are made in detail in the Member States which have authorized paying agencies to do this. So far, the nine Member States have designated 44 paying departments or agencies. However, this large number of agencies does not facilitate the management of Community funds. At the beginning of 1978, the Commission set up an interdepartmental working party to coordinate inspection visits to Member States in order to make inspection of own resources and of EAGGF Guarantee Section expenditure more effective.

Furthermore, the financial implementation of the EAGGF Guarantee Section and the rate of expenditure by paying agency and by product are affected by many unpredictable factors like the weather, the world markets, Community decisions, etc. which cannot be allowed for in advance with any degree of accuracy. This being the case, it is inevitable that there should be discrepancies between forecasts and outturn, and there are bound to be transfers between different EAGGF headings and sometimes even supplementary budgets at a certain stage in the budgetary procedure. Thus, in 1977, a supplementary budget for an amount of 714 million EUA had to be adopted as a result of economic developments and Council decisions on agricultural prices and connected measures. Nevertheless, because

of the more favourable economic climate towards the end of the year, the appropriations were not all used and in the end only an amount of 508 million EUA was actually needed.

Difficulties in supplying supporting documents

A distinction should be made between documents relating to advances, to monthly expenditure and to annual declarations for the clearing of accounts.

Advances

Advances involve three kinds of supporting document, namely Commission decisions, global provisional commitments and payment orders to Member States:

The Commission's decisions on advances are currently taken under the 'delegation of powers' procedure. The authorizing officer only receives copies of the Commission's communication to the Member States after the proposals for global provisional commitments and payment orders have been issued so they cannot be attached.

The Commission's decisions on cash advances for the payment of financial expenditure incurred by the EAGGF Guarantee Section have been duly forwarded to the Court of Auditors since its first request.

All provisional appropriations and payment orders are forwarded to the accounting officer for implementation. They are usually meant to cover expenditure for the month following their registration. The Commission ensures that supporting documents are supplied in the proper way.

Expenditure declared monthly

The expenditure paid by those departments authorized by Member States requires detailed proposals for commitment and orders to clear for payment.

Because of the deadlines for submission by Member States and for processing by the Commission, amounts can only be entered in the Commission's accounts in the fourth month following that in which the expenditure was paid. It has not so far been possible to respect the time limits laid down in the Financial

Regulation for various reasons, chiefly bound up with the failure by the Member States to respect the deadlines, deficiencies in the information supplied and the shortage of staff to scrutinize it.

Attempts have been made to ensure better respect for the deadlines by paving the way for computer processing. This should lead to improvements in 1978 and especially by 1979.

There is a particular problem with the supporting documents in respect of expenditure for the last month of the financial year which should be entered in the account by 31 March of the following year at the latest. This deadline is already very tight (Member States can amend their State aids accounts until 20 February but often overstep this limit) and the application of Article 86 (now Article 79) of the Financial Regulation in these cases could perhaps cause problems for the Court of Auditors too.

Perhaps supporting documents relating to entries made after 31 December but concerning the previous financial year could be sent to the Court of Auditors as they become available without waiting until the end of April.

Annual clearance of accounts

At present, it is impossible for Member States to supply the detailed statements relating to the previous year's expenditure by 31 March. As these statements are on average six months late, the Commission has adopted the goal of reducing the delay by three months, thus making the time-limit 1 July — which would be an improvement. The Commission therefore cannot see how the Court could acquaint itself with these documents without some time-lag.

Time-limits for clearance of accounts

The Commission is perfectly aware of the dangers to which the Court of Auditors points. Delays in clearing accounts are due to the multiplicity of types of expenditure, and its volume and complexity — these further intensified by monetary factors — and to the extensiveness of Community legislation, the many national departments involved and the shortage of staff which is particularly marked in this field of Community financial activity. The persistence of

delays and the difficulties inherent in catching up within a short time were important factors in the Commission's decision in September 1977, to have an outside consultancy carry out a general review of the working of the EAGGF.

The resulting study, received in May 1978, basically concludes that there is a need for a substantial increase in staff by January 1980 and for an improvement in working methods.

Accounts for financial years since 1967/68

The Commission emphasizes that the delays in closing these accounts are exceptional.

Decisions on aid (for the 1967/68 to 1970 periods) were adopted by the Commission on 20 December 1977, seven years after the end of the most recent period (1970) and nine-and-a-half years after the end of the 1967/68 period. The Council had specified 31 December 1974 (Regulation No 2030/73) as the time-limit for decisions on aid for these periods; consequently the delay is three years.

The closing of accounts did not alone take seven years to nine-and-a-half: the accounts for 1971 and 1972 were also cleared during this period (decisions of 2 December 1975) and the preparatory stage for the 1973 clearance decisions was also completed. In fact, it was only at the end of 1974 that the files for the 1967/68 to 1970 periods were first examined; work on closing accounts for the four periods took three years at the very most even though it was interrupted by other work.

The Court of Auditors and, before it, the Audit Board, have been informed on numerous occasions of the reasons for the delay in closing the accounts. Between 1971 and 1973 the Commission had to carry out important work in connection with the establishment of the system of own resources and the enlargement of the Community; in view of the shortage of staff in the EAGGF departments and the urgency of the abovementioned tasks, serious delay occurred in the closure of the accounts for the periods prior to the introduction of the new system of financing in agricultural policy; this also explains why — in this exceptional case — the closure and final clearance operations were not carried out in chronological order.

It is true that the present situation leads to a delay in the booking of expenditure (financial years 1971 and 1972) and to the questioning of such expenditure in actions brought before the Court of Justice. On the other hand, as far as the budgetary principles of annuality and speciality are concerned, it should be remembered that the relevant regulations (Regulation (EEC) No 729/70 and the Financial Regulation) provide for a certain degree of derogation from these principles in so far as the differences between expenditure charged to the accounts of a financial year and expenditure accepted at the time of clearance are regarded as additional or lesser expenditure for the financial year in which the clearance took place. The Commission hopes that, in future, the delays will gradually disappear and that cases of dispute will decrease particularly as a result of tighter preventive checks and greater awareness on the part of the Member States — an awareness which is already quite noticeable.

The three-month time limit laid down in Commission Regulation (EEC) 1723/72 (Article 1 (2)) for the submission of clearance documents has proved to be inappropriate in practice for a number of reasons, chief among which is the high degree of administrative decentralization in several Member States and the growing scale of supporting statements and annexes requested by the Commission in respect of an ever-increasing volume and range of expenditure.

The serious backlog in the clearance of accounts has meant that little purpose was served by amending the binding date with effect from the early years of the new system of financing as long as the backlog was not cleared. Consequently, the time limit is extended to nine months in practice until such time as the backlog is cleared: once this has been done, the regulations will be amended and the time limit finally fixed at six months.

The Commission would draw the attention of the Court of Auditors to the fact that, even when the statements are submitted within six months, experience has shown that it is impossible to clear the accounts during the year following the financial year in question; indeed, given the importance of on-the-spot and documentary checks, the frequent requests for additional information, numerous internal consultations and the length of procedures, this time limit is, in practice, extended to two years.

The discharge decision by the Budgetary Authority is given with the same reservations as those provided for in Article 97 of the Financial Regulation of 21 December 1977. The discharge given by the Budgetary Authority does not, in practice relate to accounts which have not yet been cleared.

Transfers, carry-overs and implementation of the budget

Transfers in, respect of the EAGGF Guarantee Section are made pursuant to Article 101 (2) (former Article 113) and not pursuant to Article 21 (3) of the Financial Regulation.

Under the terms of the Financial Regulation, the Commission must submit proposals for the transfer of appropriations before 1 March. This deadline is difficult to meet for the following reasons:

- (a) only the declarations submitted by Member States reveal the extent to which appropriations have been utilized;
- (b) the deadline for such declarations is 20 February;
- (c) some declarations arrive even after this date.

Commitments and authorizations are sent to the accounting officer before 1 April but are individually approved subject to the Council Decision on transfers. If the transfers are approved, the stamp of approval becomes final. If the transfers are rejected, the approval no longer holds good and the accounting documents are cancelled. The only alternative would be to book the most recent commitments to the following financial year against the appropriations carried forward. However, the carry-over system has its own deadlines (likewise 31 March in the case of automatic carry-overs) and the Commission believes that any procedure whereby a large proportion of the expenditure paid would be booked each year to the following financial year would adversely affect the transparency of the budget.

The proposed carry-over concerning refunds for Community food aid programmes for previous years was forwarded to the Council a little over a month after the statutory deadline of 1 May, owing (a) to delay in the submission by Member States of EAGGF Guarantee Section accounts which affected the calculation of appropriations available, and (b) to the heavy workload of the departments concerned during May 1977.

With regard to the non-automatic carry-over in respect of the use of the revenue under the co-responsibility arrangements, the main reason for the delay in forwarding documents to the Council is the date laid down for closing the accounts of the Guarantee Section (31 March) which almost automatically leads to difficulties in meeting the 1 May deadline for presenting non-automatic carry-

overs to the Council: this time limit of one month is often too short in practice to allow the various departments involved in drawing up the proposal for non-automatic carry-overs to carry out their administrative and control functions.

It should also be borne in mind that the statement of revenue and expenditure drawn up on 1 June contains all the relevant information about the non-automatic carry-overs awaiting Council approval. Mention is made in each case that they are entered 'subject to Council approval'. Once the decision has been taken by the Council, the statement of revenue and expenditure is amended accordingly.

With regard to the implementation of the budget, it may be recalled that the distinguishing of so-called 'dual exchange rate expenditure', and its entry under Title 4, arises from a Parliamentary amendment to the 1978 budget. This expenditure was previously entered under Article 790 (1977 budget). For 1979, the draft budget no longer includes dual-rate expenditure separately: it is incorporated in each budgetary entry. The problem of identifying the dual rate was therefore transient and the questions raised in the Court of Auditor's report are answered by the changes in budgetary presentation for 1979.

The Commission cannot accept the exaggerated remarks about cash advances; such advances are made in anticipation of forthcoming expenditure by paying agencies in the Member States.

The automatic carry-overs relating to appropriations for payment earmarked for first category payments booked to AIMA where the source operation has been established arise from amendments and corrections which have to be made regularly whenever a more thorough check — particularly on the spot — has been made.

In these circumstances, expenditure is committed in detail but is automatically carried forward to the following financial year, thus allowing any necessary adjustments arising from the implementation of the carry-over procedure to be made. This procedure is in fact an exception to the principle of annuality for which provision is made in the Financial Regulation.

Frauds and irregularities

In answer to the criticism that none of the sums which had become definitively irrecoverable have been officially cancelled in accordance with Article 24 (2) of the Financial Regulation of 21 December 1977; the former Financial Regulation which was still in

force in 1977 simply required that Financial Control be informed (Article 23 (2)).

In connection with the actions brought against the clearance decisions for 1971 and 1972, the Court of Justice has been asked to clarify the scope of Article 8 (2) of Council Regulation (EEC) No 729/70 concerning the sharing of financial responsibility between the Community and the Member States. If necessary, the wording of this Article could be given greater clarity as part of a general revision of the provisions of the abovementioned Regulation in the light of the experience gained since its entry into force.

According to information received by the Commission pursuant to Article 25 of Directive 76/308/EEC, the requisite measures to comply with this Directive were taken by Denmark, Italy and the United Kingdom. The Commission departments responsible are not aware of any cases where the delayed implementation of this Directive has given rise to recovery difficulties. It has been agreed that any application for assistance made after 1 January 1978 to the competent authorities of the Member State concerned is to be dealt with by the latter authorities. The Commission will take the necessary steps to ensure that the Directive is implemented by the Member States as soon as possible.

The problem of deflection of trade in the durum wheat sector cannot be dealt with in isolation but must be seen in a more general context of the situations of the basic product and its derivatives. The abolition of the monetary compensatory amount in August 1974 affected not only flows of durum wheat but also trade in processed products, in particular pasta products. In April 1976, the main argument in support of the proposal to reintroduce the monetary compensatory amounts was the increase in Italian supplies of pasta to the other Member States. As far as durum wheat was concerned, the problem of deflection of trade, did not exist at this time. The conclusion of the Court of Auditors 'that it would take nearly two years before this glaring loophole in the regulations could be plugged' cannot, therefore, be accepted.

In actual fact, deflection of trade in the durum wheat sector did not occur until 1977. Then the Commission became aware that certain market operators were speculating on the difference in the value of the British and Dutch currencies. The British Government was immediately requested to hold an enquiry to assess the scale of the existing trade. Furthermore, the Commission decided — on economic grounds — to re-introduce monetary

compensatory amounts in the durum wheat market. It must be stressed that this decision could not be taken before its economic and financial consequences had been considered.

Tenders

Since the procedure for tendering is not always the same, it should be pointed out that the description given by the Court of Auditors relates solely to the cereals sector and consequently no general conclusions should be drawn. Furthermore, there are a number of inaccuracies in describing the mechanisms of the cereal market.

Sales on the internal market

An intervention agency is required to sell goods by issuing invitations to tender. Its freedom of action is principally limited to deciding the date on which invitations to tender are to be issued and the quantities to be sold. The sales must be made in compliance with the provisions of Article 3 of Regulation (EEC) No 376/70, i. e. a price level commensurate with the local market price. The intervention agency is thus subject to market conditions and it must therefore act commercially with the sole restriction that it cannot accept offers which are less than the intervention price plus 1.50 u.a./tonne.

An intervention agency offers intervention cereals for sale on the internal market by issuing invitations to tender; it is free to decide when such tenders are issued. In accordance with Regulation (EEC) No 376/70, it is therefore bound by the following rules:

- (i) Notification of the Commission of the issue of an invitation to tender and thereafter of each sale;
- (ii) Publication of invitations to tender to ensure that there is competition;
- (iii) Observance of the local market price and rejection of any offers below the intervention price plus 1.50 u.a./tonne (minimum price).
- (iv) If the goods are stored elsewhere than in a marketing centre or — in exceptional cases — are sold in a marketing centre other than the one where they are stored, transport costs are taken into account in calculating

the minimum selling price. In the second case, the purchaser is reimbursed part of these costs.

Sales for export

In the cereals sector, the tendering procedure is as follows:

At the request of a Member State, a decision may be taken to invite tenders for export of goods. If the Commission accepts this request, it submits a draft decision to issue an invitation to tender to the Management Committee which takes a formal vote on the matter; the decision specifically lays down the quantities involved and the storage areas. The decision is published in the *Official Journal of the European Communities* and is thus brought to the attention of all interested parties.

Between the date of this publication and the first date of submission of tenders there is a time-limit of ten days to be observed by the Member State handling the tendering procedure.

Since the only form of tender adopted is the standing invitation to tender, there are various dates for submission which can span several months depending on the market situation. These dates together with other additional provisions are laid down by the Member State concerned in the invitation notice. The tenders submitted are processed by the national departments responsible and forwarded to the Commission which, after receiving a formal opinion from the Management Committee, decides either to accept or reject them. Acceptance takes the form of the fixing of a minimum price which leads to the acceptance of all the tenders at this level or higher. The Member State is required to notify tenderers of the outcome of their submissions but not of the minimum price (which is not published!).

If the contract is awarded to an operator he must pay the price stipulated by it. Where the cereal consignment is removed by the operator after the month in which the contract was awarded, the price to be paid is increased automatically by a sum which is at least equal to the monthly increment. The same increase applies to the refund fixed in advance when the tenders are submitted.

The Management Committees always take a formal vote on Commission proposals. Once the

invitation to tender has been issued, the tenders are forwarded to the Management Committees which, in practice, gives its opinion on a Commission proposal for laying down a minimum price or rejecting the tenders.

Once the procedure for the opening of an invitation to tender has been laid down by the Member States, the intervention agencies are required to inform the parties concerned of the results of their bids.

The Commission would like to know of any practices 'restricting access to the offer' referred to by the Court of Auditors. The Commission would point out that it has not as yet received any complaint about the publication of an invitation to tender and that, although no systematic review is made of the practices observed, it is generally aware of them. The idea of distributing a list of publications in which the intervention agencies can make known their invitations to tender seems sound. The Commission has not received any complaints about the absence of such a list.

The time limit of ten days for the submission of tenders allows for the trade to be informed and involve them in deals on the world market as quickly as possible. Purchases and sales of cereals are conducted by telephone and Community procedures cannot afford to be too slow.

What happens in fact is that the tenderer obtains an export licence, which fixes the refund in advance, and whose validity may vary depending on the arrangements envisaged. If the contract goods are collected by the purchaser after the month in which the contract is awarded, the price to be paid must be increased, every month, by a sum which is at least equal to the monthly increase. At the same time, the amount of the refund is also subject to this monthly increase.

Moreover, the EAGGF does not bear the additional storage costs caused by protracted intervention storage. The purchaser pays the intervention agency a sum equal to the monthly increase to cover storage costs. Protracted storage by the intervention agency might be discouraged by increasing the amount to be paid by the purchaser. However, the conditions of delivery would then be less favourable to the purchaser who would certainly take account of this in his offer price.

The period required for carrying out the entire procedure is often long because standing invitations to tender are made, spread over several months, and tenders are very often rejected as being too low. Standing invitations to tender are not inefficient even if they are valid for as long as twelve months. The procedure is decentralized because each Member State is responsible for publishing the notices and contacting the purchasers. The Commission thus decides on the tenders without knowing the firms which have submitted them.

Tendering for export refunds

Refunds may be determined by laying down common rule or by the principle of tendering.

The purpose of tendering is to ensure a better spread in time of export licences (and stability on the markets) and, if necessary, enable quantitative checks to be made.

The procedure for invitations to tender is laid down in Commission Regulation (EEC) No 279/75. It was used six times in the cereal sector from 1 January 1975 to 1 September 1975. The sanction to issue invitation to tender given by the Commission, after consultation with the competent Management Committee, sets out the conditions to be followed, i.e. export areas, quantities, the pre-determined period of validity of the export licences, the amount of the security and the length of the procedure.

Articles 4 and 5 of Commission Regulation (EEC) No 279/75 lay down that:

- (a) tenders must be examined by the competent authorities of the Member States;
- (b) the tenders must be communicated in an anonymous form and without delay to the Commission;
- (c) on the basis of the tenders submitted the Commission, acting under the Management Committee procedure, must fix a maximum export refund or not make an award. If a maximum export refund is fixed, a contract is awarded to any tenderer(s) whose tender is equal to or less than the maximum refund.

It is clear from the above provisions that the maximum refund is laid down by an official legal act which is published in the appropriate organ, the

Official Journal. The Commission checks that the declared refund expenditure is within the limits it has set.

Chapter 3 — The EAGGF — Guidance Section

Financial resources and their destination

Since the EAGGF Guidance Section came into being large sums of money have been made available in support of the policy in respect of agricultural structures — an essential adjunct to price and market support policy, although over the years the relative share of total agricultural expenditure accounted for by expenditure on structures has continually declined. Although initially accounting for one-third, expenditure by the Guidance Section (348 million u.a.) only amounted to 5 % of agricultural expenditure in 1977 (7015.5 million u.a.) owing to the sharper rise in expenditure by the Guarantee Section.

Guidance Section expenditure for 1964-77 totalled 2 478 million u.a., four-fifths of which enabled individual investment projects aimed at improving production and marketing structures to be financed. The remainder financed special measures (11.6 %) and, from 1972 onwards, common measures, the financing of which on a priority basis is provided for in Council Regulation (EEC) 729/70. These measures should end the scattering of appropriations caused by the system of aids to individual projects under Council Regulation No 17/64/EEC.

However, very great difficulty has been experienced in the adoption of decisions and the implementation of Directives and Regulations on agricultural structure policy. The result has been that considerable appropriations intended for common measures remained untouched until 1977. A total of 531 million u.a. of these untouched appropriations were 'reserved' for the financing of common measures, thereby constituting what was known as the 'Mansholt reserve'. These funds will be put to use for the first time in 1978, i.e. this year.

Implementation problems

Apart from the difficulties attached to implementing the common measures and consequently the

non-utilization of Guidance Section appropriations there is the problem of the time lag between commitment and payment, which is closely linked to the type of measure — a problem which the Commission has over the years taken steps to alleviate.

A distinction should be made between direct action by the Community in the form of an EAGGF subsidy for an individual investment project, and indirect action whereby the Fund pays back to the Member States the proportion of the aid granted by them. In the first instance the payments are virtually never made during the year when the commitment decision is taken; they are spread over several years in step with the progress made by the work. Actual repayments are generally made during the accounting year when the commitment decision is taken.

On-the-spot checks

It should be pointed out that in 1977 the Commission held on-the-spot checks on nine individual projects and six common and special measures. The Court of Auditors, preceded by the Audit Board, took part in the inspection of two individual projects (N/71/74 and N/53/75) and five common and special measures (aid to producer groups in the hops sector in the United Kingdom and Bavaria, aid to groups of fruit and vegetable producers in the United Kingdom, aid in the modernization of agricultural holdings in Bavaria and aid for socio-economic information and the professional training of agricultural workers, also in Bavaria).

Individual projects

The Court of Auditors raises a problem regularly arising with regard to the marketing and processing of agricultural products, for which Article 17 (2) of Council Regulation No 17/64/EEC provides as follows:

'Intervention by the Fund must not alter the conditions of competition in such a way as to be incompatible with the principles contained in the relevant provisions of the Treaty.'

The Commission is of the opinion that, as emerges from the details given below, this requirement has been met. It must, however, be stated in general terms that determination of a dominant position by a beneficiary in a certain market or sector depends in

part on the definition of that market or sector. As regards the marketing of agricultural products it is often a question of subsidiary markets which cannot truly be considered to be separate markets since the competition comes mainly from other products which can replace the product in question. In these circumstances it seems difficult to claim a dominant position for certain of the instances quoted by the Court.

There are also certain sectors which are so restricted in size that all of the competitors hold dominant positions, but often have a turnover which is very limited, which leads to difficulties for them in raising the necessary investment capital.

The outcome is that in certain regions of the Community some agricultural products are still upgraded to a very limited extent, if at all (e.g. offal).

The beneficiary under project B 31/71 performs activities aimed at upgrading slaughterhouse offal which, particularly beef fat, cannot be marketed as such and is also having difficulty in finding outlets. After rendering down, fat of this type is used *inter alia* in the soap industry and in cattle feed, but on this market alternative products are so numerous that only highly automated processing (envisaged by the beneficiary), can enable production to continue. If such activities downstream of the local abattoirs, who supply the raw material, are not continued there would be not only a total loss of profits but also the additional cost of disposing of waste which is currently recycled. Even with 40 % of the market (and here it is certainly not a separate market but a slice of a market dominated by other products) the company is still very small in economic terms.

Project IRL 40/74 follows the same lines as the former project, i.e. it concerns the production of cattle feed based on slaughterhouse offal. Before implementation of the project, this offal had to be transported to Northern Ireland for processing, so that in addition to transport costs out of proportion to the value of the offal there were hygiene problems.

Project F 23/72 involves a highly specialized market — mushroom spawn — which is served by very few undertakings. In view of the growth in demand, particularly for export, production capacity was inadequate.

The beneficiary of project F 43/74 does indeed control the percentages quoted for certain products

(brandies without registered designation based on French wines) but not on the market, which also includes many other products.

The beneficiary of project UK 1/74 is a member of a large group which possibly occupies a dominant position on the tobacco market, but in no way in the sector covered by the project, which is aimed at the processing of fish stock.

These projects thus comply with Article 17 (2) of Council Regulation No 17/64/EEC. As the Commission attaches particular importance to this aspect, its competent departments are monitoring developments in the various marketing sectors for agricultural products.

The Commission does not intend to discriminate against a beneficiary (and Council Regulation No 17/64/EEC does not in any case permit it) because of the organization which he chooses for his activities. The sole criteria applied are thus the proven effects of the action envisaged. For the three cases quoted the advantages of the projects mentioned below justify the granting of EAGGF aid:

The creation of pulp-drying cooperatives (F 53/73 and B 46/74) was prompted by the fact that the end product is used by farmers as cattle feed. It is therefore not marketed outside the agricultural sector and it is difficult to accept that the benefit from investments in a sector such as this does not go to the farmers, particularly if it is they who have the majority holding within the beneficiary undertaking.

The beneficiary of project F 138/71 is contractually linked with farmers or groups of producers supplying pigs. This system is specifically provided for in the new common measures to improve the conditions under which agricultural products are processed and marketed (Council Regulation (EEC) No 355/77) as an example to demonstrate the advantages of a project for the producers. The Commission is trying to encourage such systems since they can be one of the best means of guaranteeing agricultural outlets and incomes.

It should be noted with regard to project F 43/74, quoted by the Court of Auditors, that the economic reality is much more complex than this aspect of the situation. If the comment had been correct (i.e. that the undertaking should reduce its prices as much as possible), this would also have been true in the past. The cost of raw materials indeed depends basically on the relationship between supply and demand.

However, a company's past pricing policy is thus in certain cases a valuable indicator of future policy. This at least applies in a sector where the Commission is not interested in seeing a contractual policy developed. This project concerns the distillation of surplus wines; although the aim is for vine-growers to obtain the highest possible price for their products, to guarantee this by contracts leading to surplus production must be avoided. Where there are no contracts the only valid indicator can be the policy pursued in the past. The Commission has therefore overruled the refusal to approve this project.

It is quite true that applicants always try to marshal as many arguments as possible in favour of their projects and that the latter often follow no common thread. In future the Commission will try to clarify in more detail the points accepted as justifying the decision to grant aid.

The training of people engaged in agriculture

The method of converting into national currency the amounts expressed in units of account in the measures relating to the common policy on agricultural structures was established in 1975 in compliance with the relevant Community provisions (Articles 4 and 6, Regulation (EEC) No 1134/68). The representative rate to be used is that in force at the time the aid is granted. The aid provided for in Directive 72/161/EEC, Title II, is converted at the representative rate in force at the time the training period begins. This is quite clear, equally so in the case of Ireland. The course fees consist of (a) the money spent by trainees (e.g. travel expenses) and the allowances granted to offset loss of wages and (b) the costs borne by the training institution. Where the part of the expenditure is reimbursed by the Fund, the method of calculating and the nature of the expenditure to be accepted are determined by joint agreement with the Member States concerned. Finally, it should be noted with regard to the distribution of expenditure that, where a course extends over two accounting periods, the whole of the expenditure is declared to the EAGGF Guidance Section for the accounting period in which the course ends.

The sum of 1 500 u.a. provided for in Directive 72/161/EEC is assigned to the beneficiary personally and therefore constitutes a ceiling for each trainee. The ratio set out in Article 12 of the Directive leaves no doubt on this point. It must be pointed out that the restriction on the reimbursement of expenses for

short courses is imposed by the Commission on all Member States. Two training periods of this type are the minimum needed to form a complete course.

Mountain and hill farming and farming in difficult areas

Operators who are likely to develop may in fact claim certain aids as provided for in Council Directive No 72/159, but under the conditions laid down under Title III of Council Directive 75/268.

On 2 March 1977, before payment of the balance to be reimbursed for 1975, the United Kingdom confirmed that the special provision laid down in the Commission Decision of 3 March 1976 had been complied with in respect of all expenditure in 1975. The Commission therefore accepted the eligibility of all of the expenditure declared.

In accordance with Article 4 of Commission Decision 76/627/EEC the Member States are obliged to keep — for a period of three years dating from the final reimbursement — the supporting documents (originals or certified copies) on the basis of which the aids envisaged in Directive 75/268/EEC were calculated, together with complete files on the beneficiaries. In addition, Article 9(2)(b) of Council Regulation (EEC) No 729/70 on the financing of the common agricultural policy stipulates that the officials appointed by the Commission may check whether the requisite supporting documents exist and tally with the transactions financed by the Fund.

The supporting documents requested from France concern solely the sum total of the beneficiaries from two 'départements' and a number of beneficiaries from three other 'départements' mentioned in the report.

The information supplied by France at the request of the EAGGF Guidance Section shows that the use of collective pastures or mountain pastures, which was very widespread in certain regions of France, did not appear from the individual slips. Since it emerged that, in view of the surface areas used in common, the conditions for Community support for the declared expenditure had been fulfilled, it was not necessary to amend the request for reimbursement. Starting from 1977 the individual slips will be altered so as also to include information on the collective pastures or alpine pastures in use.

Chapter 4 — European Social Fund

Fund operations

About 90 % of the assistance from the Fund goes towards vocational retraining and resettlement operations (occupational mobility), more than half of this total being for the maintenance of workers' incomes during the retraining and resettlement period. The remaining 10 % is for operations to assist the geographical mobility of workers.

Leaving aside the pilot schemes and studies, the money for which is included in Chapter 52 of the budget and represents a minute proportion of the sum allocated to it, the Fund acts in two ways:

- (1) On the basis of specific decisions by the Council, where the employment situation:
 - (a) is affected or likely to be affected (intervention either through particular measures adopted by the Council as part of Community policies or through common measures designed to further the objectives of the Community); or
 - (b) calls for a specific common measure to improve the correspondence between supply and demand on Community labour markets.

In 1977 these operations concerned workers leaving agriculture, textile and clothing workers, migrant workers, handicapped workers and young people seeking employment.

- (2) In respect of operations which are carried out in the Member States as part of their employment market policies and which:
 - (a) are aimed at resolving the problems arising in certain regions suffering from serious long-term imbalances in employment;
 - (b) are aimed at making it easier to adapt to the requirements of technical progress in certain branches of economic activity;
 - (c) are conducted because of major changes in the conditions governing the production or marketing of products in groups of firms in the same line of business or related activities which are obliged to discontinue their activities, run them down or convert to another line of business on a permanent basis;
 - (d) concern the integration or re-integration of handicapped persons into employment.

Old and new Fund implementation arrangements

The old system was in force from 1 May 1972 until 31 December 1976. Under these arrangements the budget appropriations covered the operations for the financial year in question (financial year n) and were supplemented by commitment authorizations for operations in the financial years $n + 1$ and $n + 2$. Consequently, when the change was made to the system of differentiated appropriations, on 1 January 1977, a total of 268 million u.a. had already been committed from 1975 or 1976, as the case may be, in respect of operations still to be carried out (195 million u.a. in 1977 and 73 million u.a. in 1978).

The new régime has been in force since 1 January 1977. The appropriations for commitment now cover operations to be carried out during the financial year in question or ensuing financial years, without any theoretical limit in the future. As a result, the system of commitment authorizations becomes superfluous. Article 108, paragraph 4 of the Financial Regulation lays down, however, that the commitment authorizations for the European Social Fund made available under the 1976 budget and to be charged against operations during the financial year 1978 on the basis of Article 104 of the Financial Regulation of 25 April 1973 shall remain in force during the financial year for which they were made available. As sums committed under these authorizations shall be added to the commitment appropriations for the financial year for which they were made available. As regards the appropriations for payment, their purpose is to meet — in accordance with the estimated requirements for the financial year in question — the commitments entered into during the financial year or earlier years, without any theoretical limit in the past.

1977 was the first year of the differentiated appropriations system. Taking into account the appropriations carried over from 1976, the appropriations for payment for the financial year 1977 had been fixed much lower than the appropriations for commitment: 172.4 million u.a. compared with 617 million u.a. Even so, they were not used up in their entirety during the year, since 57 million u.a. were carried over to 1978.

Revenue and expenditure account

The Commission admits that the present arrangements for the revenue and expenditure account may be conducive to error; the suggestions made by the Court of Auditors will be examined and appropriate steps will be taken for 1978 onwards. Meanwhile, the Commission has corrected the mistakes made in the 1977 revenue and expenditure account in accordance with the Court's observations.

There is a difference between the amount of assistance committed for operations in a particular financial year and the amount of payments made even after several years. Leaving aside particularly tricky operations or operations which are behind schedule, this difference is attributable to programme reductions or cancellations.

Hitherto this difference could not be shown in the accounts. With a system of non-differentiated appropriations, the accounts showed — as required by the Financial Regulation — only the final amount of commitments at the end of the financial year and the final amount of the corresponding payments at the end of the carry-over period. The appropriation representing the difference between these two amounts lapsed. If sums had to be paid subsequently, it was necessary to re-commit them, first of all, against fresh appropriations for the current financial year. Consequently, the programme reductions or cancellations were not shown in the accounts except as regards Fund administration requirements, i.e. in respect of the Social Fund departments. With a system of differentiated appropriations the procedure is different. Article 6(2)(a) of the Financial Regulation now allows two years for the utilization of appropriations for commitment granted for the financial year n . Hence appropriations for the financial year n committed in the financial year n may be released either before the end of that financial year or even in the financial year $n + 1$ and re-committed before the end of the financial year $n + 1$.

Consequently, if programme reductions or cancellations are made in good time before the end of the financial year $n + 1$ the corresponding appropriations may be re-utilized for new operations.

As from the financial year $n + 2$, programme reductions or cancellations may no longer give rise to re-commitments. The value of the release of appropriations would, nevertheless, be to make the accounting figures for the sums outstanding under past commitments more realistic; the Commission will therefore be using this method in the future.

Financial management

Payments in 1977 totalled 316 million u.a. compared with 235 million u.a. in 1976, an increase of almost 30 %.

New rules governing the Fund were introduced with effect from 1 January 1978 with the aim (among other things) of improving the method of payments in the future, in particular by means of advances at the beginning of, and midway through, each programme and by introducing the means to accelerate payments in relation to operations carried out prior to 1 January 1978.

In addition, the Commission has decided to make obligatory the use of standard forms for claims for payment; the Commission has also introduced new administrative rules on the management of the Fund, including a provision setting a time-limit for the submission of claims for payment.

Member States have encountered certain difficulties in implementing the new rules, either in failure to designate, within the time-limits in the new regulations, the responsible authority to certify claims (which is now a condition of payment) or in correctly using the new forms. The Fund administration has tried to bring about a more general use of the new facilities for payment claims by bringing them to the attention of each Member State and, by personal contacts, helping to resolve the problems in using the new claim forms. A considerable improvement has been noted recently.

Special measures have been taken in order to accelerate the clearing of the back-log, but here again the Member States also have an important role to play by making full use of the new rules, by the correct completion of claim forms and by promptly answering requests for additional information.

Chapter 5 — The European Regional Development Fund

Purpose of operations

The continuing existence of regional imbalances within the Community is a major obstacle to European integration and to economic and monetary union. It has been stated many times that it is one of the Community's basic aims to reduce these imbalances. This aim has become all the more urgent since the unfavourable economic developments of the last few years have severely affected the weaker regions.

The European Regional Development Fund (ERDF) was set up in 1975 (Council Regulation No 724/75) as an instrument of the Community regional policy to reduce these disparities. It performs this task by helping to finance investments in one or another of the following categories:

- investments in industrial, small business or service activities which are economically sound and which benefit from State regional aids, provided

that at least 10 new jobs are created or that existing jobs are maintained. In the latter case, the investments should fall within the framework of a conversion or restructuring plan to ensure that the undertaking concerned is competitive. The Fund provides 20 % of the investment cost. It may not, however, contribute more than 50 % of the national aids granted;

- investments in infrastructure connected with the development of the activities referred to above and designed to improve location opportunities and develop new activities in the least-favoured regions of the Community. For investments below 10 million u.a., the Fund contributes 30 % of the costs incurred by the public authorities, and for investments of 10 million u.a. or more it contributes 10 % to 30 % maximum (a contribution of up to 40 % in some cases is planned for the future);
- infrastructure investment in respect of mountain and hill farming and farming in other less-favoured areas. The Fund operates under the same terms as those mentioned in the second indent above.

The Fund's resources are shared among the Member States in accordance with quotas fixed by the Fund Regulations and designed to take account of regional differences. It is envisaged that in the future a section of the Fund will contribute to the financing of specifically Community regional policy measures which will not come under national quotas. For the financial years 1975 to 1977, total appropriations of 1 300 million u.a. were placed at the Fund's disposal.

Implementation

The projects submitted by the Member States for aid from the Fund must form part of regional development programmes designed to help redress the main regional imbalances in the Community which could affect the achievement of economic and monetary union. The Court of Auditors rightly emphasizes the progress recently made in this sector.

When implementing its regional policy, the Commission makes every effort to coordinate its structural financial instruments, in order to make more efficient use of the Community's limited resources, render the measures more effective and apply the financial instruments in accordance with rational principles of efficiency. The Commission has made a systematic effort to coordinate all its

activities, by opening up communication between departments, creating interdepartmental groups, simplifying procedures and making wider use of the delegation of powers for routine decisions. The Commission has made a special effort to coordinate its financial instruments, by setting up the EIB (European Investment Bank) interdepartmental group and the interdepartmental group for the coordination of financial instruments within the Commission. The purpose of the latter group is to provide an overview of problems shared by several or all the financial instruments. In January 1977 the Commission expressly instructed one of its members to coordinate the Community funds and implement a consistent policy for all the other means of structural financial intervention. This Member has a permanent working party for this purpose, comprising officials of the Commission Directorates-General concerned.

These various coordination measures have thrown up many suggestions, several of which have been adopted by the Commission itself in the texts presented to the Council.

However, it is still too early to assess the results achieved by the Regional Fund in view of its relatively recent start.

Financial management

The applications for aid from the Fund are presented to the Commission by the Member States in accordance with the appropriate Regulation. The applications must be supported by information enabling the Commission to judge the value of the investments in the light of the criteria laid down by the Regulation. The Commission ensures that the Member States provide it with all the information listed in detail in Article 7 of the Regulation. It takes its decisions in the light of this information, the overall development programmes notified by the Member States and the priority objectives which it has laid down.

The Commission believes that, to avoid unacceptable delays, there is no need to carry out any more detailed examination than that provided for by the Regulation when the application is first examined. However, when the utilization of funds is being checked, all other relevant documents may be taken into consideration.

As regards payments by the Fund, the Commission requires the Member States to submit quarterly statements of actual expenditure and detailed supporting documents containing the information required under the Fund Regulation.

This system of management has enabled the Commission to provide aid totalling 11 700 million u.a. for over 4 700 projects over the period 1975-77. It has also enabled the Commission to make prompt payments in response to the applications. For the same period these amounted to only 740 million u.a. or 57 % of commitments. This slow rate of utilization of appropriations for payment is mainly due to the following factors: first, the Fund's operations are intrinsically long-term measures; it takes several years to carry out a project (e.g. construction of a road) and experience has shown that payments are made on average over a period of five years; secondly, payments by the Fund are a partial reimbursement of Member States' own regional aids, which are sometimes subject to additional conditions. The Commission has proposed to the Council that a system of advances to the Member States be introduced to speed up the rate of utilization of appropriations for payment.

Supervision of operations

Under Article 9 of the Fund Regulation, on-the-spot checks or enquiries about operations financed by the Fund are made, at the request of the Commission and in agreement with the Member State, by the competent authorities of the Member State. Commission officials may take part in them and the Commission may fix a time-limit for carrying them out.

The Commission always uses the same procedure for on-the-spot checks. It has given the Court of Auditors a copy of its instructions for such checks (which are drawn up by the authorizing officer) and the forms which are normally used for the report on the inspection visits. The Member States apply different rules and procedures for the supervision of projects, but during these inspections the Commission tries, as far as possible, to obtain the information necessary for the correct and uniform application of the Fund Regulation in all the Member States. If the inspections carried out by the national authorities do not produce the information required by the Commission for correct management of the Regional Fund, the Commission calls for the inspections to be adapted accordingly and for the different types of administrative procedures used to be harmonized with the Fund Regulation.

The Commission is of the opinion that the Regulation normally requires jobs to be created once the sectors concerned are fully operational, and the number of jobs created does not have to be shown in the pay sheets on the day of the inspection. Furthermore, as long as jobs are saved or 10 new jobs are created by means of aid from the Fund, and as long as investment benefiting from aid does not exceed 100 000 u.a. per job created, the Commission can hardly call for a reduction in Fund aid unless it can prove that the nature of the investment receiving aid has changed.

During the checks, the Commission departments concerned endeavour to establish the creation of jobs, and their inspections include an examination of the supporting documents. Statements by firms are of value only as a guide. The Commission considers that the Member States generally do their utmost to comply with the Commission's request in this area.

Applications for payment are no longer based on estimates of expenditure. Payment is made on the basis of actual expenditure. The Member States have complied with the provisions of the Regulation.

The arrangements by the French authorities for the inspection of industrial projects have been such that Commission officials were not allowed to visit the projects concerned; the checks had therefore to be limited to the examination of documents held by the responsible authorities. This matter is currently the subject of discussions between the Commission and the French authorities.

The Court's comments on job creation in the United Kingdom could be misleading. In particular, the local officials concerned pay careful attention to the employment aspect where a selective financial aid is concerned. The proportion of jobs in activities qualifying for aid (e.g. manufacturing) must be taken into consideration by the UK central authorities even where the European Regional Development Fund is involved. Where possible, the Commission endeavours to locate supporting documents establishing that jobs have been created in the United Kingdom Government's files.

Chapter 6 — Appropriations for research and investment and for energy policy

Research and investment appropriations

The Commission's research and development activities have as their basis the Council Resolution

of 14 January 1974 relating to the progressive development of a common policy in the field of science and technology involving the coordination of national policies and the joint implementation of projects of interest to the Community. On 30 June 1977 the Commission presented the Council with a first report on the implementation of this policy, setting new guidelines for the period 1977-80. This communication pinpoints four priority sectors in which research and development work should be encouraged at Community level:

- long-term security of supply of energy, agricultural, raw materials and water resources,
- promotion of economic development in the Community to ensure competitiveness at international level,
- improvement of living and working conditions,
- environmental and nature protection.

The Commission's activities in the field of scientific research and technological development come under these general objectives.

The research and investment appropriations in Chapter 33 of the Commission's budget basically constitute the translation into budgetary terms of the pluriannual research programmes adopted under Article 7 of the Euratom Treaty and, in certain areas, Article 235 of the EEC Treaty. They consist of appropriations for commitment and appropriations for payment.

Research is conducted as follows:

- through direct action, it is carried out at the Joint Research Centre which was set up under Article 8 of the Euratom Treaty and consists of the establishments situated in Ispra in Italy, Karlsruhe in Germany, Geel in Belgium and Petten in the Netherlands;
- through indirect action, it is directed from the Commission's headquarters and carried out on the basis of contracts of association, cost-sharing contracts, study contracts, etc. by research bodies in the Member States and financed jointly by the Community and these bodies (Article 10 of the Euratom Treaty);
- through concerted action, it is carried out and financed by research bodies in the Member States, with the Commission simply coordinating the research in question.

Direct action

While the JRC programme for 1973-76 can be regarded as a programme of transition and reorientation, the programme adopted on 18 July 1977 for the period 1977-80 already takes full account of this reorientation of Community research. The new programme, which is based on the general guidelines set at the end of 1975 by mutual agreement between the Council, the European Parliament and the Commission concerning the role of the Joint Research Centre in the development of Community research, has five central topics:

- nuclear safety (reactor safety, plutonium fuels and actinide research, nuclear materials and radioactive waste management),
- future energies (solar energy, hydrogen, thermonuclear fusion technology, high-temperature materials),
- environment and resources,
- measurements, standards and reference technique,
- service and support activities.

The latter includes the operation of the Petten HFR reactor which is the only 'complementary' programme, i.e. a programme which is not backed by all the Member States: it is not financed out of own resources but by contributions from the Member States concerned (Germany and the Netherlands).

It should also be pointed out that the ESSOR reactor installations and staff have been placed at the disposal of the Italian Government under Article 6 (c) of the Euratom Treaty. All the expenditure concerned is therefore met by this Government.

In 1977 the Commission endeavoured to launch all the activities provided for in the new programme near enough on schedule despite difficulties due to the protracted decision-making procedures and recourse to an Amending Budget. The provisions adopted entail reductions in staff numbers (80 posts phased out over 4 years) but an increase in appropriations for the modernization of the general installations and scientific equipment. The relevant investment plan mainly relates to the financial years 1977 and 1978.

Indirect action

The research programmes covered by the pluriannual programme decisions adopted at the Council meetings on 17 December 1974, 26 June 1975, 15 and 25 March 1976 and 21 December 1976 have been pursued in the following sectors:

- fusion and plasma physics,
- energy research and development (energy saving, production and use of hydrogen, solar energy, geothermal energy, systems analysis, modelling),
- biology and health protection,
- management and storage of radioactive waste,
- environmental protection,
- plutonium recycling in light water reactors,
- teaching and training,
- reference materials and methods (Community Bureau of References),
- safety in nuclear installations.

Where the fusion and plasma physics programme is concerned, it should be stressed that since the Council Decision of 30 May 1978 this includes the JET project the aim of which is to construct and operate a large experimental machine for the technological development of a fusion reactor — the Joint European Torus (or Tokamak). This part of the programme is being executed by a joint undertaking established under the provisions of Chapter V of the EAEC Treaty. The undertaking comprises 11 members — in addition to Euratom — representing specialist research bodies in the Community and Swedish and Swiss organizations.

Most of the appropriations for commitment remaining at 31 December 1976 and available in 1977 (168.5 million u.a.) were transferred to the fusion programme (i.e. 143.3 million u.a., of which 64.4 million u.a. were for the JET project).

Concerted operations

This is the most recent form of research and development activity of a Community nature. The

Council resolutions of 14 January 1974 envisage that, in developing a common policy on science and technology, an 'appropriate approach should be adopted towards the whole range of available ways and means: direct projects, indirect projects, joint projects, etc., in an effort to ensure maximum effectiveness while endeavouring to obtain a fair allocation of tasks among the laboratories and research bodies in the Communities and the Member States'.

In 1977 the appropriations for the implementation of concerted operations were still entered under Item 3911. Since 1978 these appropriations, too, have been entered in Chapter 33 of the Commission's general budget.

The main object of the activity sheets, which cover an annual — not monthly — period, is to show the budget appropriations available for a project whose implementation is shared out amongst several units. They are subsidiary accounts which help the person responsible for a project to keep an eye on the rate of consumption of the relevant appropriations. They are not designed to assist in controlling the quality or progress of the research project.

Ispra

The technical aspects of the contract concluded with the University of Pavia (Euracos) are complicated and may be summarized as follows:

- what is involved is a large device ($6 \times 4 \times 3$ m) permanently installed in the reactor's thermal column. The agreed price includes permanent rental and the cost of installation;
- the 900 hours agreed in the contract is a ceiling which seeks to guarantee users the essential freedom of manoeuvre;
- apart from the actual hours of irradiation during experiments, a considerable amount of time is spent on preparatory work and on the calculations to interpret the results. In this context, the number of hours of irradiation, whether in 1976 or 1977, cannot possibly be used to judge the effectiveness of the installation.

As far as the expenditure relating to the transfer of the Euracos experiment from Ispra to Pavia is concerned, it should be pointed out that they included not only dismantling, transport and preparation of the new site, but also unavoidable

modifications and the cost of the services provided by the central workshops at Ispra.

In accordance with the current rules, it was not possible to bring the 'RABBIT' circuit into service until the irradiation and operating manuals had been approved by the body of safety delegates. Approval was received on 13 December 1977 and the period that elapsed before the circuit went into operation was normal for the installation.

Keeping the stock of heavy water from the Ispra I reactor is good management — heavy water is a material whose procurement from now on will be difficult and will involve long delays and high costs. By keeping the existing quantity, the JRC has ensured that it has an emergency stock for operating the ESSOR reactor, and the commercial value of the commodity will not decrease with time.

ESSOR complex

As already stressed in the introduction to this chapter, the Commission must recall that the ESSOR installation is not part of a Commission research programme under Article 7 of the Euratom Treaty. The installation is Community property and, since 1973 and in application of Article 6 (c) of the Euratom Treaty, it has been at the disposal of the Italian Government for the purpose of carrying out programmes and other work decided on and financed by that Government. The contractual arrangements set out in 1973 and extended to the end of 1977 make the management of the contracts the responsibility of a committee in which the Italian Government has a two-thirds majority.

Although part of the appropriations for financing the ESSOR complex are shown in the Commission budget, and the Commission is therefore signatory to undertakings towards third parties, it must be stressed that commitments of this kind are made only on the basis of decisions by the abovementioned management committee. In the last resort — under Article 3 (2) of Annex III of the contract — it is not the Commission that bears the financial consequences of such decisions but the Italian Government. It is correct that the contract covering the 1977 financial year was not signed until September 1977. Between the beginning of the year and September, ESSOR activity was covered by a letter of intent from the Italian Government dated 11 February 1977 and renewed on 22 June; it indicated the Government's intention of extending the validity of the contract, authorized the Commission to continue its activities and guaranteed repayment of the Commission's expenditure.

Moreover, the programme decision adopted by the Council in 1976 provides that, up to 31 December 1980, the Italian Government shall bear the cost of the operations of the ESSOR complex. This was confirmed for 1977 by entries in Annex I (Research and Investment) of the Commission budget (remarks on Article 929 of the statement of revenue and Item 1090, the appropriation account).

As regards 1978, the Commission would refer to the remarks on Article 333 of the budget which again confirm the obligations of the Italian Government.

The comments below should be considered in the light of the above paragraphs.

The decision to use the sum initially agreed in the IRA contract for preliminary and safety studies and for the supply of certain parts, was taken by the Italian authorities acting within the Management Committee and after a detailed study by the supervisory authorities.

However, it cannot possibly be said that the contractor received payments in advance of completion and verification of his work. The work was almost completed by May 1976 which was why in June 1976 he was paid 515 000 u.a., i.e. the total sum minus the proportion held as a guarantee. Most of this guarantee (LIT 30 000 000) was not paid until August 1978 (after discussions and approval given in the final report submitted in January 1978.) The Commission does not see where the abuse might lie — no payment was made until work had been completed and verified.

The work in question was not originally provided for in the IRA contract. It was ordered following a decision by the Management Committee in January 1976. The quality assurance was required by the authorities responsible for issuing the requisite authorization on safety.

The Commission wishes to stress that it does not itself envisage taking a decision of any sort — it is for the Italian Government to take a decision in due course and the Commission will then comment on that decision.

As concerns the CABIRIA and CLEOPATRA circuits, the Commission emphasizes that, although construction should not have commenced before the official authorization by the safety control authorities was issued, the delays involved are too long for work to be suspended entirely whilst awaiting formal decisions. The safety control studies were far more

advanced than one would suppose from the report. As for the time it takes the safety authorities to issue the authorizations, the Commission has no power to reduce this and therefore disclaims all responsibility.

With regard to the Court of Auditors' comments as to the difference between the sums committed under the budget and what it calls legal commitments, the Commission draws attention to the fact that the contracts covering construction of the two circuits include a clause permitting cancellation for justifiable reasons, particularly substantial changes in the construction programme and the research agreed in the contract with the Italian Government. Whilst awaiting renewal of the contract with Italian Government on the management of the ESSOR complex in 1977, the Commission did not feel it was necessary to cancel the contract as it was in a position to suspend execution with the agreement of the contractors and the Italian Government. In these circumstances the Commission felt that it was not necessary to undertake further commitments in respect of work which might be continued. What is more, there need be no fear of financial or legal consequences for the Commission since the responsibility lies with the Italian Government.

As far as the SARA circuit is concerned, in accordance with a standard practice approved by various authorities a private contract was awarded, making the following stipulations from the outset (the last two points were made to cover eventualities):

- feasibility study (contract and addendum No 1) amounting to 36 400 u.a.;
- preliminary study (addenda Nos 2 and 3) amounting to 592 800 u.a.;
- construction (addenda Nos 4 to 8) amounting to 19 488 000 u.a., 5 284 000 u.a. which were authorized for commitment in 1977 and then reduced to £1 206 000 in January 1978 under addendum No 7.

Firm legal commitments which are clear and enforceable have regularly been covered by similar monetary commitments.

Finally, in the case of the CABIRIA and CLEOPATRA contracts and the SARA contract, the Commission has executed the proposals of the management committee in accordance with the contracts and the Financial Regulation and cannot therefore, in the final analysis, be called upon to bear the financial responsibility.

Delivery of fuel elements and enriched uranium ordered from an American company were in fact

delayed in 1977, partly as the result of a change having to be made to some of the original order and partly because the American supplier has been having administrative difficulties.

The Commission's departments have taken the necessary steps to safeguard the Community's interest and had achieved complete success by April 1978 when action taken previously resulted in the delivery in full of supplies which had been pending. There has therefore been no financial loss to the Community.

As concerns the policy on stocks of fuel elements, a general comment is called for. The procurement of the fuel elements (approximately 100) and the related expenditure were decided in 1973 to permit completion of the radiation work provided for in the outline programme of the ESSOR contract; the difficulties encountered subsequently in implementing the programme explain why it has not yet been possible to use all the fuel elements.

Karlsruhe

The Court of Auditors has raised the difficulties encountered by the JRC administration because the directors were unable to fix a clear plan in advance. This situation was the result of the attitude of the German authorities (who, as mentioned in the Audit Board's report, did not wish to fix such a programme in advance), and the fact that the requisite funds were not immediately available.

Another factor which affected management should also be stressed: given the preoccupation of the Federal Republic of Germany with the security of nuclear installations at the time, it was essential to begin the protection work as early as possible.

The Court has itself mentioned the efforts made by the management to obtain the favourable prices enjoyed by the German research centre. Where private contracts were awarded, this was always done for such cases and within such limits as are permitted by the Financial Regulation. The Commission stresses that the CCAM-CCR (Joint Research Centre Advisory Committee on Procurements and Contracts) was informed whenever the intervention threshold had been reached.

In addition and in spite of the spread of various further orders, the Research Centre's departments

rigorously controlled prices by comparing the original offers with the market price. All possible precautions were taken at management level in spite of the severe constraints arising out of the urgent representations of the German authorities.

As for the 'wide-ranging consultation between the Commission and the German authorities', it would seem relevant to draw the attention of the Court of Auditors to the fact that the authorities of the *Land* of Baden-Württemberg are competent to deal with all problems relating to the physical security of the Karlsruhe installations. The Commission does not have authority to negotiate directly with the *Land* authorities. In the meantime an official request on this point has been addressed to the Permanent Representative of the Federal Republic of Germany in Brussels. Although this is not strictly speaking consultation at political level, the relevant departments of the Karlsruhe establishment have nevertheless maintained constant contact with the local authorities.

With regard to preparing the orders covered by the investments, the services concerned might have been able to achieve a few savings by means of a longer and more thorough market investigation, but this would have delayed the physical protection work on a Commission installation which was a potentially important objective for trouble-makers.

Expenditure under the energy policy

With regard to the appropriations under Chapter 32 of the budget, the Commission would draw attention to its constant efforts to carry out the action programmes under the energy policy.

Generally speaking, implementation of these action programmes has been affected by delays arising from the procedure for approving programme proposals and from the circumstances surrounding their implementation.

The Commission began by proposing an initial set of actions in the hydrocarbons sector in support of Community technological development projects directly linked with hydrocarbons exploration, exploitation, storage or transport activities which are likely to improve the security of the Community's hydrocarbon supplies. These measures take the form of financial support to the manufacturing undertakings, i.e. the granting of loans, the underwriting of loans or subsidies repayable in certain conditions. Community participation in

approved projects is limited, however, to a maximum of 49.9 %: the implementation of this first set of projects began in 1975.

Still in the hydrocarbons sector, a second set of measures was the subject of a proposal (sent to the Council in November 1974) in support of joint prospecting projects, particularly in the preliminary stratigraphic investigation of deep-sea sedimentary basins.

Appropriations were allocated to these projects in 1977 but they could not be committed for want of a Council decision during the 1977 financial year.

With regard to uranium, the Commission is continuing to implement a programme designed to encourage the prospecting for uranium resources on Community territory; its participation takes the form of non-repayable subsidies for uranium prospecting programmes.

The Court of Auditors has compared the payments made between 1974 and 1977 with the appropriations entered in the budget and speculates about the reasons for the delays occurring in payments, i.e. procedural delay or an over-estimate of requirements?

During the initial stages of this new action (approved by the Council in 1973), delays of this kind were inevitable and must be attributed exclusively to the budgetary procedures operating at this time. Indeed, the support contracts concluded in pursuance of Council Regulation (EEC) No 3056/73 included the implementation of multiannual programmes (generally for three years) whereas until 1976 the budget merely provided for annual appropriations which could only be carried over once to the following financial year.

Furthermore, the Council was well aware of this since it re-entered in the 1977 budget 8 million u.a. of the 8 335 434 u.a. which had been cancelled at the end of 1976 and, in the 1978 budget, it re-entered 15 million u.a. of the 18 877 132 u.a. cancelled at the end of 1977. The difference is justified by the cancellation or partial implementation of a number of contracts which were already anticipated when these decisions were taken.

Table 1 shows that the time taken in negotiating contracts with firms did not exceed six months apart from the first year where an additional period of five months was needed to finalize the standard contract.

Table 2 shows that virtually all the sums entered in the budget in respect of each series of projects were committed within the appointed time-limits.

The apparent anomaly discovered by the Court of Auditors will disappear with the third series of projects which has been financed from differentiated appropriations. Nevertheless, there are still likely to be repercussions on payments in 1978 and 1979, particularly for the first two series of projects (Table 3).

The Court of Auditors expresses concern that the system of aid (loans repayable if the project proves a commercial success) will encounter practical difficulties of implementation.

It must be remembered that no repayment can arise before 1978 since the first contract was signed in 1975 and the first results cannot be expected before June 1978. At the present time (September 1978), the accounts have been closed and approved by the Commission in respect of 11 contracts and the first repayments have been made in respect of 7 contracts.

After a trial period, the Commission set up an administrative structure to manage the contracts. After payment of a lump sum when the contracts are signed, subsequent payments are made against evidence of expenditure actually incurred (coupled, if necessary, with an on-the-spot check to verify proper implementation of the work). The balance — never less than 20 % of the contract amount — is not paid until after the accounts have been closed and the results checked.

In the last quarter of 1978, the Commission will send to the Council and to Parliament a second report on the implementation of Council Regulation (EEC) No 3056/73 which will outline the progress of each project and analyse the early results in the development of technological projects receiving Community support.

Table 1 — Timetable for the implementation of Regulation (EEC) No 3056/73

Financing periods	Expiry date of invitation to tender	Commission proposal	Council Decision	Negotiation and conclusion of contracts
1974-76	31 March 1974	26 July 1974	19 December 1974	June to December 1975 ⁽¹⁾
1975-77	28 February 1975	25 July 1975	4 May 1976	June to December 1976
1977-79	28 February 1977	27 July 1977	25 October 1977	From November 1977 onwards

⁽¹⁾ The first six months of 1975 were taken up with drafting the standard contract.

Table 2 — Commitments

(in u.a.)

Financial year	Appropriations entered in the budget	Support granted by the Council	Appropriations actually committed by the Commission	Destination of the appropriations committed
	<i>Non-differentiated appropriations</i>			
1974	25 000 000	42 503 159 ⁽¹⁾	—	
1975	25 000 000	—	38 914 816	First set of projects (1974-76)
1976	28 000 000	38 448 635 ⁽²⁾	35 116 265	Second set of projects (1975-77)
	<i>Differentiated appropriations</i>			
1977	50 000 000	53 408 611 ⁽³⁾	22 474 161 ⁽⁴⁾	Third set of projects (1977-79)

⁽¹⁾ Council Decision of 19 December 1974 on the grant of support for 21 technological development projects in the hydrocarbons sector.

⁽²⁾ Council Decision of 4 May 1976 on the grant of support for 34 technological development projects in the hydrocarbons sector.

⁽³⁾ Council Decision of 25 October 1977 on the grant of support for the implementation of 40 technological development projects in the hydrocarbons sector.

⁽⁴⁾ In respect of 14 contracts signed up to 31 December 1977.

Table 3 — Payments

(in u.a.)

Set of Projects	Appropriations committed	1975	1976	1977	Total payments	Payments still to be made
First (1974-76)	32 914 816	25 466 715	5 156 310	477 847 ⁽¹⁾	31 100 872	7 522 153 ⁽¹⁾
Second (1975-77)	35 116 265	—	10 543 280	5 695 853	16 239 133	18 877 132 ⁽²⁾
Third (1977-79)	22 474 161	—	—	5 690 536	5 690 536	16 783 625
Total payments		25 466 715	15 699 590	11 864 236	53 030 541	

⁽¹⁾ The 8 million u.a. from the 1975 appropriations re-entered in 1977 pursuant to a Council Decision have been used for 1977 payments and will be used in 1978 to pay the 20 % balance of the subsidy, as provided for in the support contract.

⁽²⁾ Under a Council Decision, 15 million u.a. of this amount have been re-entered in the 1978 budget. The Commission is to request the re-entry of the balance in a subsequent financial year.

Chapter 7 — Cooperation with developing countries and non-member States

Food aid

The replies to the comments concerning food aid are based on the principles governing the management of aids. The Community's food aid is based on the obligations arising from the International Food Aid Convention as regards cereals and unilateral donations of products other than cereals (in particular milk products and, to a lesser extent, sugar) decided upon by the Council every year when the Community budget is drawn up.

The Council decides how the products are to be divided up between the recipient countries and organizations on the basis of target programmes submitted by the Commission.

The budgetary appropriations for food aid — which amounted to 178 400 000 u.a. in 1977 — are entered in Chapter 92 of the budget. In addition, appropriations to cover export refunds are entered in Title 6 of the budget.

The granting and delivery of aid to the recipient countries and organizations are discussed in an *ad hoc* exchange of letters to which are attached the conditions of supply and utilization which the recipients undertake to observe.

The assembling and procurement of these products are laid down in the provisions of the Community Regulations establishing a common organization of the market in each of the sectors of the products concerned. The aid is financed under the Community arrangements for financing expenditure resulting from the supply of agricultural products as part of food aid.

The granting and delivery of aid thus meet the specific criteria of Community development aid policy, and the assembling and procurement of the products have to meet the requirements of the common agricultural policy and the management thereof.

The inevitable dualism which results in respect of the management of the aids is at the root of the various technical problems; various Commission departments and the national intervention agencies of the Member States are involved in these operations.

The Commission makes every effort to cope with the difficulties with the means at its disposal, in particular by improving the procedures for supplying aid by drawing up appropriate outline regulations concerning the assembling of the products required and making strict checks on the conditions of delivery and use for these aids.

Recently, the Commission sent the Council a proposal concerning the adoption of new procedures for the distribution of aid in order to speed up the execution of these activities. The Commission's efforts have already improved the situation as compared with the management of previous years. However, it should be noted that these improvements depend on the means — procedural and material — put at its disposal.

Closing the accounts for the aid years raises considerable administrative problems for the Commission. The work preparatory to closing the books for the financial year 1975 will probably be completed in the first quarter of 1979, so that final clearance could be decided during the first six months of that year. The delay is thus around two and a half years; this is mainly due to the considerable increase in the number of aid activities and the inclusion from 1 January 1975 of the expenditure on food aid in the form of milk products.

As the staff allocated to the financing of food-aid expenditure has not increased at the same rate, priority has had to be given to day-to-day management, including the inspection of expenditure at the monthly payment stage, a procedure which enables the solution of some special problems to be anticipated, thus facilitating work involved in the final clearance.

As regards the reimbursement of additional expenditure occasioned by factors such as demurrage charges and the costs of delays in shipping, the Commission stresses that its departments have not recorded the claims in those cases where it was difficult to specify the agency responsible for the additional expenditure. However, the Commission has taken measures to recover these sums on the basis of Article 35 of the Financial Regulation (Article 29, new version); the Commission is aware of the possible difficulties of recovering these sums but it has not abandoned its claims.

Another problem arises in assessing the requirements of the recipient countries. The final decision regarding the choice of products is taken by the authorities of these countries and not the departments of the Commission. When supplying

sorgum to Niger, for instance, the departments of the Commission ascertained that the national authorities had chosen this variety in full knowledge of its characteristics. The country's imported milk powder requirements were considerable when the aid was approved, and still are so. This is a problem of distribution and not of absorption capacity.

As regards the supply of cereals to India, the Commission decided to supply wheat after exhaustive discussions with the Indian authorities on the spot, with the Member States and with the Council; it thus knew for a fact that the situation had improved since the Council's original decision. The reason it sent the supplies was that the Community could not renege on its commitment once the Indian authorities had repeated their request for the wheat.

The various aids are normally procured by means of tender. Although the absence of any cost analysis may sometimes raise problems, the Commission is of the opinion that the most important task is to accept the most favourable offer irrespective of its breakdown.

When procuring aid products, the Commission is not protected against every eventuality, as is shown by the case mentioned by the Court of Auditors relating to the consignment of milled rice for the Comoros. The consignment of husked rice for Niger has meanwhile become the subject of a dispute between the Italian intervention agency, the tenderer and the Commission, and is currently before the Milan court.

With reference to the consignments of durum wheat for Chad and of milled rice for Upper Volta and the use of Community aid in accordance with various agreements, particularly in Peru, Bolivia, India, Niger and Upper Volta, the Commission's departments are engaged in a detailed study of these operations, particularly the use of counterpart funds by the beneficiary countries to identify and remedy existing deficiencies like those mentioned in the Court of Auditors' report.

As for the general aid delivery problem, the Commission's departments are looking into ways of ensuring that consignments are actually delivered in good time. In fact, the Commission is currently preparing a framework regulation on the procurement of cereals intended for use as food aid.

Contributions to the United Nations Relief and Works Agency for Palestinian Refugees in the Middle East (UNRWA)

The Community contribution for 1977 amounted to 13.7 million u.a., consisting of 10.4 million u.a. in kind and 3.291 million u.a. in cash, of which about 25 % is intended to cover costs of transport and distribution of basic rations to the refugees and the remaining 75 % or so to finance the supplementary food programme for the more needy sections of the population. The cash payments (which are usually made half yearly) are renegotiated each year with UNRWA on a provisional basis and are subject to the Council's approval. In some years, the contribution has not fully covered expenditure, whereas in 1974/75 and 1975/76 on the other hand the contribution exceeded actual requirements.

UNRWA notified the Commission as soon as it was sure that the Community contributions would greatly exceed its expenditure (the main reasons for this were the drop in commodity prices and a cutback in programmes following the civil war in Lebanon). At no time did UNRWA try to conceal the position, nor did it try to use Community contributions for other programmes. The Commission informed UNRWA that the matter would have to be brought to the attention of the Council in due course and that meanwhile steps would have to be taken to ensure that this did not happen again in 1977. As a result the Commission made no payment for the 1977 financial year.

It is difficult to talk about 'cooperation with the non-associated countries' in this general context as this is still food aid and not aid to non-associated developing countries. It does not even come under the heading of 'financial cooperation with the non-associated developing countries' as it does not involve the 'Mediterranean' protocols.

In conclusion, the Commission would emphasize that it is most concerned to assume its full responsibilities in respect of the implementation of the budget in accordance with the Treaties.

Chapter 8 — Staff expenditure

The Commission regrets that the Court of Auditors did not follow the budget presentation when drawing

up its comments on the separate examination of the accounts of each of the institutions. Contrary to what the report of the Court of Auditors might suggest, the Commission is not responsible for the financial management of the other Community institutions mentioned in this chapter and cannot express its views on this subject. This comment also applies to the chapter on operating expenditure.

The comments made by the Court of Auditors on the geographical distribution of dependants have not escaped the Commission's notice. These disparities are due to the differences in national laws governing legal maintenance obligations upon which the grant of this allowance is based.

The Commission would like to state in this connection that the implementing provisions of Article 2 (4) of Annex VII to the Staff Regulations of officials of the European Communities concerning dependants were amended in 1975 following detailed examination by a working party consisting of representatives of the various institutions.

The Commission does not believe that another amendment after so short a period of time would be an example of good management. Furthermore, the problem connected with the amount of the presumed burden will be resolved with the introduction of the European unit of account. Nevertheless, the Commission proposes to examine the Court's comments in detail with the other institutions. The question of more systematic control of the payments made for the maintenance of dependants will also be raised during this examination.

The Court of Auditors has perfectly grasped the reasons why the Commission has taken this decision concerning the classification of research staff subject to the new system. It was a question of not allowing these officials' financial situation to deteriorate and not rendering null and void previous administrative decisions concerning them.

Although the figures contained in the table of allowances under Articles 56a, 56b and 100 of Staff Regulations do not cover the 1977 financial year, it should be noted that the favourable effects of the administrative reforms undertaken by the new Directorate were felt particularly strongly from 1976 onwards.

The Commission is at present drawing up the reports on the implementation of the Regulations concerning

allowances for arduous working and stand-by allowances for 1977. These reports should be completed by the end of the year.

As regards entitlement to the arduous working allowance, it should be recognized that the allocation of a certain number of staff to scientific or technical work or to administrative work will always lead to discussions and opposing arguments in a number of cases. The most important problem is that of infrastructure. It is currently being examined by the departments of the Joint Research Centre, prior to a decision by the Director-General.

It was found soon after adoption of Regulation (EEC) No 300/76 concerning allowances for shiftwork that strict interpretation of this Regulation would lead to differing treatment of officials in the same position. Shiftwork was required for reasons of efficiency, economy in staff costs and equipment, and the need to arrange special operating hours for the telex service. The Commission was of the opinion that the smooth operation of this service was indispensable for the security of the matters dealt with, but must not involve the abovementioned inequalities, and considered that entitlement to this allowance should be extended to staff attached to this service. However, it heeded the objection of the Financial Controller and drew up a draft Regulation to extend the scope of Regulation (EEC) No 300/76 to staff of the telecommunications services and some film-setting services. This proposal is now being studied by the competent offices of the Commission.

Following Judgment No 58/75 of the Court of Justice of the European Communities, the Commission took appropriate internal measures to avoid administrative expenditure resulting from the belated reinstatement of an official after leave on personal grounds.

Three of the four cases to which the Court of Auditors refers date from the period before the judgment of the Court of Justice. In the fourth case, where the period extended until August 1977, reinstatement was delayed by administrative problems which should not recur following the introduction of the abovementioned measures.

These measures may be summed up as follows:

- the person in question will be asked three months before the end of his leave on personal grounds to confirm whether he wishes to be reinstated or whether he wishes to resign;

- all the posts becoming vacant will be examined before publication and, where applicable, offered to the official awaiting reinstatement if he satisfies the requirements for that post;
- as a precaution, each official awaiting reinstatement will be sent the vacancy notices published for posts of his grade;
- after twice refusing posts which would have allowed him to be reinstated, the official is automatically required to resign in accordance with the procedure provided for Article 40 of the Staff Regulations.

In its Decision of 23 March 1977 to override the Financial Controller's refusal to approve compensation for drivers' overtime, the Commission stated that, as the main decision concerning the remuneration of a D 1/8 official went back to 1972, it should not be called into question. However, this aspect is not the main reason for its decision.

For reasons of fairness, there can be no question of providing different remunerations to officials of different steps or grades as part of a system of flat-rate compensation. If varying levels of compensation were required for one and the same service, it would be necessary to fix as many allowances as there are officials of different grades and steps carrying out their duties in the same special working conditions; these allowances would no longer be flat-rate allowances. Article 3 of Annex VI to the Staff Regulations expressly states that these special working conditions for a group of officials may be compensated for in the form of fixed allowance. This formulation shows that the Commission is not exceeding the limits laid down by Staff Regulations.

The Commission's decision to renew its computer equipment has had a number of consequences as regards the following utilizations:

The findings of the studies are now being put into practice: it has been decided to convert the programmes to suit them for the new equipment before putting them into operation.

The Commission's computer staff is currently converting existing operations to the new material. The staff needed to continue the work already conducted by an outside firm (recording and establishing of staff data) will be available in 1979.

The working party responsible for examining the position of staff not covered by the Staff Regulations or the system applicable to other servants has not yet completed its report. The Commission will not fail to inform the Court of the contents of the report when it is completed and the action it intends to take to follow up the working party's conclusions.

Chapter 9 — Operational expenditure

The uniform regulations required by Article 196 of the Financial Regulation of 21 December 1977 to which the Court of Auditors alludes were already in use under the old Financial Regulation of 25 April 1973. The purpose of the Commission Regulation of 30 June 1975 was to implement certain provisions of the Financial Regulation of 25 April 1973 (OJ L 170 of 1. 7. 1975). This Commission Regulation is to be revised as soon as the EUA is introduced into Community acts. It should also be noted that the 'Regulation containing implementing procedures' cannot settle all the details which arise (moreover, there are 'internal implementing rules' for the different sections of the general budget of the European Communities). The Commission will do everything in its power towards a more uniform application of the Financial Regulation.

The forms mentioned by the Court are devised as part of the 'internal implementing rules', the adoption of which is a matter for each institution. It probably would be more practical to use common forms for the different institutions, and efforts should be made to introduce such a measure.

The Commission shares the Court's concern about the different budgetary headings used by the institutions, a practice which results in criteria for charging expenditure. The Commission is prepared to cooperate in any attempt to harmonize practice here.

The Commission does not think that a new Article under Title 2 — 'Social Contacts between Officials' — which would duplicate the Article 141 — would add to the clarity of the budget. In the Commission's view, expenditure incurred under Titles 1 and 2 of the budget should generally be charged according to its nature, and not its destination; this is because such a procedure constitutes a detailed analysis of the overall operational costs of the institutions on the basis of criteria which can be adjusted directly and effectively. It is also possible to reconstitute, on the basis of the entries in the accounts and the supporting documents for the expenditure, the total cost of the operations which the Court thinks should

be examined in detail. The improvements to the staff centre in Luxembourg and the sports centre in Overijse were charged in accordance with this principle. It should also be noted that the choice between the two methods of charging is not simply a matter of clarity, for perfect clarity can be achieved by either method. There are many reasons governing the choice, including policy requirements set by the Budgetary Authority.

The Commission charges expenses in respect of the Commissioners' cars to Item 2233 and not Item 2100 'Rentals', since the renting of a garage or car park by the Commission is not concerned here; these expenses are for the safe keeping of these cars, expenses which are high compared with those in respect of other service vehicles. In this particular case the Commission has tried to gather expenditure relating to the running of its motor fleet in to the same chapter, following the principle of charging in accordance with the nature of the expenditure.

On 29 June the Council decided not to endorse the Commission's proposal for a decision setting up a European Youth Forum; but, to take account of the interest shown by the Commission and Parliament in involving young people more closely with the building of a united Europe, the Council agreed to the transfer of 50 000 u.a. from Chapter 98 to Article 254 of the 1976 budget for setting up a temporary secretariat for young people as the forerunner of a European Youth Forum. The amount was increased to 190 000 u.a. for 1977 after the interinstitutional procedures in force had been applied.

In the Commission's view it is essential to provide Directorates-General which are organizing conferences, symposia, etc., with a global budget to cover all costs of organization (preparation, implementation and exploitation), including secretarial expenses. These vary according to the number of reports submitted, discussed and later distributed. In the case in point the secretarial work was particularly heavy, because the symposium concerned all three areas of ECSC research (coal, steel and social matters). The staff, which the organizing Directorates-General engaged through an outside agency, had to stay with the Commission's departments, in direct contact with the officials responsible, for a period of some six months.

The provisions which apply to imprests are laid down in Article 49 of the Financial Regulation and in Articles 46 to 54 of the implementing procedure for certain provisions in the Financial Regulation. Under

these provisions the decisions setting up imprest accounts determine, in particular, the nature and maximum amount of each item of expenditure which may be paid from such an account. Clearly, expenditure on the provision of buildings is never laid down in the decisions which set up the imprest accounts, and this is why payment was made at the outset from headquarters.

Under Canadian law real-estate transactions may only be carried out through a lawyer approved by the Government (rather as with notaries in Europe). A payment made by the Commission on 13 December 1977 to the account of the Commission's legal representative in Ottawa was made with the intention of concluding the sale; the budgetary authorities had granted their authorization. The Council's decision was taken on 21 December and the sale was actually effected on 31 December after all the evidence of the correctness of the price agreed for the purchase of the property had been supplied to the head of the Commission delegation.

The building in question is not in fact insured for a value of only 165 000 dollars. The Court of Auditors took this figure from a policy which is no longer valid. The building is now insured under a policy covering all buildings and land at the disposal of external offices. The premium is worked out on an area basis.

The work referred to by the Court of Auditors was not undertaken separately from the actual construction of the building; it was therefore not possible to have this work carried out by anybody other than the main contractor and the subcontractors appointed by him after a thorough survey of the market — a practice which is covered by Article 52 (e) of the Financial Regulation.

The work in question forms part of a wide range of specifications which could only be finalized during construction; most of the work is undertaken by the builder as part of the specification package. The extra expenditure is for additional work which, in many cases, could only be identified *post facto* and after a counter-survey undertaken by the Commission's departments. Assisted by an outside expert, these carried out a systematic check to see that the invoices were for the proper amounts. In certain cases, e.g. simultaneous interpreting facilities or radiological equipment for the medical centre, the Commission's departments themselves carried out a

technical and financial review. The Commission takes the view that the extra work — which a building of this size and this sort of equipment make inevitable — was carried out on the best possible terms.

Changes to the departments occupying the building in the rue Guimard took place after partitioning had already been installed by the owners on the Commission's instructions. A number of partitions therefore had to be altered to meet the new requirements.

The Commission has already explained on several occasions that changes may occur in the structure of its departments as a result of new tasks to be carried out, the establishment of task forces, and when existing departments are merged or new ones set up. It is not possible to state precisely at the contract-signing stage what the structure of the departments will be when they move into a building. In this case, the Advisory Committee on Procurements and Contracts (ACPC), when consulted, gave a favourable opinion, saying that 'the expenditure was estimated at approx. BFR 2 000 000 (40 000 u.a.)', but this is not a ceiling.

The publication in full of the agreements and conventions signed by the European Communities (compiled up to 1975 with subsequent annual updating) was a major task for which the editorial work and the administrative and technical procedures had to be undertaken in step if the results of the former were not to be made obsolete by developments in the latter.

Thus the first cost estimate, dating from 1976, had been carefully worked out in theory, both with regard to the size of the order and the complexity of the manuscript and the printing process. Nevertheless the estimate was already of such a size that extending the scale of the operation could hardly influence the choice of firm; this was governed by the capacity of their technical equipment and their method of calculating prices.

On the other hand, when it was possible for the scale of the operation to be correctly decided in 1977, the ACPC thought that, if new tenders were called for, the state of the market would not necessarily mean improved terms, whereas if the order were started immediately, a very large slice of the work would be done in the period when the printers were bound by

the conditions of their tender without the price-revision clause operating. This circumstance, coupled with the possibility of reducing the unit cost still further by using certain techniques (smaller type face, reproduction of certain texts rather than resetting, etc.), persuaded the institutions involved to go ahead in the knowledge that they would be carrying out the operation under the most favourable financial conditions.

In the light of these replies, the Commission takes the view that these cannot be considered 'serious cases'. For a long time the Commission has wished that, as the Court of Auditors recommends, 'common procedures and common principles should be applied' to all the institutions where administrative expenditure is concerned.

The Commission does not take the view that it is in the institution's best interests to attempt to cut telephone bills systematically. Better equipment (with conference-call facilities, for instance) would improve communication and relations between people in separate places of work and would enable travel costs to be cut and considerable time to be saved.

Concerning control over possible misuse, the Commission takes the view that current measures are sufficient to keep the risk acceptably low.

Under Article 33 of the Financial Regulation, the Financial Controller's approval must be obtained and the appropriations committed before any measure which gives rise to expenditure from the budget can be undertaken, i.e. before legal commitment occurs. If the Commission signs a contract which constitutes such a commitment, the appropriations themselves must be committed before the contract is signed by the contractor.

The nature of the services supplied under study contracts and the desire for quality in the studies themselves make it difficult to impose penalties for delay on contractors.

The Statistical Office chose the Danish organization which, in its view, had a high reputation and the necessary resources; the fee which the Statistical Office was charged corresponds to what the same organization charges the Danish authorities.

The delay in lodging the final reports with the institution's archives was exceptional, being due to the finalizing of these reports jointly by the institution and the contractors.

The deposit paid when the contract is signed is limited to a maximum of 30 %; any excess is an exception warranted where investments are required at the start of the study.

The Commission is well aware of the need to put potential contractors into competition. But in many cases the specificity of the study precludes competition.

Chapter 10 — Summaries of reports on external bodies

The Commission assumes that the Court of Auditors does not expect it to comment on this chapter. The Commission will give its replies via the appropriate channels.

Chapter 11 — The general accounts

As already stated in its replies to the first chapter, the Commission is struck by the severity of the Court of Auditors' comments. In the Commission's view, the 'serious weaknesses' pointed out are not evident. The Court of Auditors' comments are not always easy to understand and contain inaccuracies.

The Commission keeps its accounts in accordance with the provisions of its Regulation of 30 June 1975 on measures of implementation of certain provisions of the Financial Regulation of 25 April 1973. The provisions stipulate the keeping of budgetary accounts (recording for each sub-division of the budget the established entitlements and amounts collected for the financial year, and the commitments and payments for the financial year), and of general accounts enabling the institution's statement of assets and liabilities to be drawn up. This Regulation also demands the establishment of an accounting plan. All these provisions have been observed. With respect to the presentation of the accounts, the Commission refers to the general observations, particularly to the section concerning the 'Accounting practices'.

The Commission has also drawn up internal rules for the implementation of the general budget of the European Communities. These rules lay down the responsibilities of the various departments in

budgetary matters; they are constantly supplemented by new delegations and sub-delegations of powers and of signature. Similarly, special Regulations lay down the administrative methods and the procedures for certain categories of expenditure. This corpus of regulations and measures constitute a firm documentary basis for the operation of the Commission departments, in particular of its accounts service. The Court of Auditors, which is acquainted with this, can obtain from this source all the information it requires for its audit.

The Commission's accounting service observes these provisions punctiliously. All revenue and expenditure is entered in the accounts in accordance with the various regulations and an accounting plan which is updated every year. The accounts service also constantly analyses and clears accounts. The central accounts — embracing the budgetary accounts and general accounts — thus makes it possible to draw up at any time a general balance of the accounts, and to establish, for each item or heading in the budget, the amount of commitments entered into, the payments made, the payments due, the appropriations blocked and the available appropriations.

Monitoring of the responsibility of the authorizing officers and accounting officers is carried out in accordance with the rules laid down in the Financial Regulation adopted by the Council.

The Commission appreciates the difficulty which the Court of Auditors experiences in comprehending the operation of its central accounts, which have to deal with a large amount of financial information concerning not only budgetary revenue and expenditure but also non-budgetary operations (revenue and expenditure which, for one reason or another, cannot be charged immediately to an article in the budget). However, the conclusions drawn up by the Court of Auditors appear over-hasty.

The adjustment account which gave rise to this alleged error no longer exists. It is inaccurate to say that this account has not always been adequately analysed. The error in question was picked up when the monthly clearing of the account was carried out and was duly corrected.

The 'old items' of which the Court of Auditors speaks are closely watched by the Commission. There are not many of them. For some of them the Commission is obliged to wait for information from the accounting departments of the Member States (old EAGGF balances). The Commission regularly carries out an analysis of the balances involved.

The Commission regularly and systematically reconciles bank accounting and bank statements.

The Commission's departments regularly check that inventory lists agree with the facts in the following manner:

- as regards furniture, when items are issued from stock,
- as regards office machines, when maintenance work is carried out,
- as regards technical equipment and groups of machines (for example, copying and printing shops, the radio and television studio of the Spokesman's Group and the Directorate-General for Information, the medical service, the restaurant, the press and information offices, the Commission Delegations, etc.) by drawing up a card-index of items administered and kept up to date by the user department and checked annually by the inventory department.

This procedure was unofficially accepted by the Audit Board. The Commission therefore asks the Court of Auditors whether it believes the practices to be inappropriate.

The figures notified for inclusion in the annual accounts were checked beforehand by the competent Commission departments. The Court of Auditors is in a position to check this. It is therefore untrue to say that these figures were never checked.

The bank statement which accounts for the operation which caused an exchange loss of 494 301 u.a. arrived at the Commission after the closure of the bank accounts relating to the financial year 1976. For this reason the exchange difference could not be charged to the accounts for the financial year 1976.

The sum of 930 000 u.a. which, according to the Court of Auditors, should have been charged as a 1977 expenditure was booked to the 1977 budget on appropriations carried over from 1977 to 1978. This sum was therefore not allocated in error to the 1978 budget. Although it did not figure in the bank balance on 31 December 1977, the amount of 220 000 u.a. quoted later influenced the balance of the liaison account between Brussels and Ispra and was thus indirectly included in the balance-sheet.

The observation concerning a recovery in respect of the Publications Office is unfounded. For practical cash reasons, the Commission settles the Official

Journal printing bills and the Office reimburses the Commission without delay. Periodically, the Office establishes a breakdown of Official Journal printing expenses as between the institutions.

The sum referred to by the Court of Auditors represents a bank transaction which has no budgetary implications.

Chapter 12 — Own resources

Unilateral exemptions from customs duties by Member States

Article 28 of the EEC Treaty states that any autonomous alteration or suspension of duties in the Common Customs Tariff must be decided unanimously by the Council.

In answer to the Commission's queries the Irish and United Kingdom Governments stated that they have ceased to apply these exemptions or have taken the necessary steps to end them.

The Italian Government has not yet, however, replied to the Commission's request that these unilateral exemptions be discontinued and another letter will be sent to the Italian Government shortly. If no satisfactory reply is received, the Commission will consider whether it is necessary to initiate eventually the infringement procedure laid down in Article 169 of the EEC Treaty.

Having sent two letters to the Member States setting out its position on its interpretation of subparagraph (6) of Article 223 (1) of the EEC Treaty with regard to exemptions from customs duty for imports of military equipment, the Commission is now holding discussions with representatives of the Member States to clarify the legal position and to ensure that Community law is strictly observed.

Irregularities and fines

The Commission agrees with the Court of Auditors on the need to improve control of own resources by facilitating the exchange of information and reciprocal assistance in this area. The Commission will take this into account when presenting the Council with its proposal for a regulation on irregularities in respect of own resources.

The Commission is interested in the study proposed by the Court of Auditors on the law and practice on penalties for fiscal fraud as they operate in different Member States.

Rebates on customs duties granted to the Danish shipbuilding industry

As the Court of Auditors points out, the rebate scheme for the Danish shipbuilding industry is being abolished. It has been completely abolished for ships commenced since 1 July 1977. The rebate will be granted for ships commenced no later than 30 June 1977.

As regards goods for use in the construction, repair, maintenance or conversion of the ships listed in the table in paragraph A of Section II (Special provisions)

of the Common Customs Tariff and goods imported or used for fitting out or equipping such vessels commenced before 1 July 1977, only those customs duties which were actually paid will be reimbursed in accordance with the provisions of the Common Customs Tariff referred to above.

The Commission would point out that Article 131 of the Act concerning the Conditions of Accession and the Adjustments to the Treaties provides for a limited increase in the relative share to be paid by each new Member State under the head of own resources and of the financial contributions for 1978 and 1979. In view of this, the reduction of own resources mentioned by the Court of Auditors would have no effect if Denmark exceeded the stated limit. It will be necessary to wait until the accounts are closed to see if this will be the case.

Part II — The European Development Funds

THE FIRST THREE EUROPEAN DEVELOPMENT FUNDS

Chapter 1 — General accounts

As it pointed out in its reply to the comments on financial year 1976, the Commission is trying to close the operations of the first two European Development Funds as soon as possible.

With regard to the first Fund, there are at the moment eight projects outstanding, which represent a balance of commitments of approximately 970 000 EUA and should normally be closed by the end of 1978; the exception is the Comoros Republic where a commitment of 200 000 EUA has still to be put to use.

With regard to the second Fund, 29 projects have been closed since 1 January 1978, thus reducing the number of projects outstanding to 77.

In accordance with the wishes of the Court of Auditors, on 5 July 1978 the Commission sent the

Council a proposal for a decision designed to reallocate to the third Fund the appropriations left over from the finished projects in the second Fund. In this way no new financial decisions will be taken with regard to the second Fund and the transferred appropriations will be used in accordance with the procedures governing the management of the third Fund.

It is quite true that a figure of 5 560 373 EUA is given on the assets side of the balance-sheet for advances granted to EDF grant-holders. However, these advances awaiting settlement, taken as a whole, do not represent any adjustment of the 1974/75 academic year which has been finally closed, except for the sums totalling 1 112 198.28 EUA which remain to be recovered from two managing bodies; 248 182.61 EUA was repaid to the Commission in August 1978 and then transferred to the new managing body in Italy. Of the difference, i.e. 864 015.67 EUA, owed by the old managing body in Belgium 826 882.90 EUA has been accounted for, the balance of 37 132.77 EUA being held over pending the Commission's final decision.

To sum up, the figure of 5 560 373 EUA breaks down as follows:

1 112 198.28 EUA	referred to above,
3 530 825.35 EUA	instalments paid to managing bodies in respect of 1975-76
917 289.42 EUA	clearing of advances made to the EAC and to Zaire for the 1974-75 academic year and regularized in June 1978.
60.32 EUA	alterations to charges.
5 560 373.37 EUA	

The overruns in EUA, which were found when the balances from the four Funds at 31 December 1977 were checked, were covered either by correcting the charge against the budget, or by a supplementary commitment in the books for the 1978 financial year.

The overruns are not due to insufficiency of appropriations, but rather to temporary discrepancies resulting in most cases either from a time-lag in making the entries in the different classes of accounts or from something being erroneously charged in respect of a contract or, again, as the Court of Auditors observes, 'from the outcome of changes in the par values of the paying currencies in relation to the EUA'.

The deviations between the computerized accounts and those done by the accounting officer at the end of the year are explained by the fact that certain entries were recorded at the end of the year with different dates in each set of accounts.

There were two reasons why the deviations could not be corrected at the end of the financial year:

- under the Financial Regulation, and Article 40 in particular, the accounting officer's account is only closed when the statements of account as at 31 December from the authorized paying agencies (approximately 56) reach the Commission, i.e. at the end of February. Hence the closing balances on the two sets of accounts can only be rectified after they have been established, i.e. at the beginning of March. It then becomes extremely difficult to seek the reasons for any deviation, since the end-of-year balance-sheets and administrative accounts have to be drawn up within the prescribed time-limit, i.e. by 31 March, which is the date laid down in the Financial Regulation for all these papers to be sent to the

Commission for approval before they are forwarded to the Court of Auditors;

- computerization of the accounts at the Computer Centre which was begun roughly two years ago was supposed to be fully operational by now. Unfortunately, for reasons outside the Commission's control, the accounting system for the European Development Funds is not yet perfect. For some months now, the Computer Centre, owing to a change of equipment, has had to convert the data in store so that they can be used by the new system and this has interrupted the progress of the original programme. Moreover, changes in the Luxembourg Computer Centre's organization chart have brought changes in the assignments of officials.

The Commission is aware of these problems and has already taken steps to remove the difficulties, the principal causes of which are as follows:

- Firstly, the date by which entries must be closed: the accounts have to be submitted for approval to the Commission and then forwarded to the Court of Auditors by 31 March in the following financial year at the latest (Article 64 of the Financial Regulation); secondly, Article 40 of the same Financial Regulation also requires that each year's accounts should show all revenue and expenditure between 1 January and 31 December.

This dual obligation places the accounting departments in a difficult position, for it is practically impossible to satisfy both requirements at the same time. It has been decided, therefore, that in future both sets of accounts will be closed finally on 31 December of each year; the last entries relating to operations carried out during the financial year may be recorded up to 15 January of the following year.

The extension will leave enough time for the accounts to be closed by the end of January and the books to be checked before the balance-sheets and revenue and expenditure accounts are drawn up on 31 March.

It goes without saying that the books should be compared during the financial year itself by means of the monthly balances. However, if concordance is to be the rule, it must also be admitted that comparing the authorizations for payment with the commitments may, in certain cases, temporarily reveal an overrun of appropriations for an individual

project, for example where a first payment has to be made immediately although commitment procedures have not yet been completed pending the arrival of contract documents which have to be processed by the national authorizing officer. The last payment also may be delayed when exchange rates diverge in relation to the EUA.

Chapter 2 — Comments on various types of aid

General comments

The Commission is aware of occasional delays in sending certain closed files to the Court of Auditors and has taken steps to remedy this anomaly, which no longer happens except by accident.

Project No 3121.781.16.17 'Marketing of bananas' (Somalia) consisted of a contract for a study of the importing, marketing and selling of Somali bananas in Italy. The expert carried out his task to the Commission's satisfaction and sent in a first bill for his fee and other expenses, incurred in connection with the study. However, it was laid down in the contract that the expert could also claim for certain travel and subsistence expenses within a prescribed time-limit. The Commission's financial departments therefore kept the project open for a while in order to cover these expenses, should they arise, but the expert submitted no further claim. This explains the time-lag between the expert's submission of the report, the first payment and the closing of the project which was deliberately delayed in order to meet further contractual expenses. As it turned out, the expert's study cost 1 438-89 EUA less than the 3 000 EUA appropriation.

Projects Nos 215.115.24 'Setting up of small and medium-sized firms' (Senegal) and 212.104.25 'Study of stock-farming on the Bateke plateau' (Zaire) were closed late by the Commission; the files give no reason for this delay, save perhaps, that the uncertain nature of the results meant that the contracts had not been fully carried out. Both projects were closed with appropriations left over. The three examples, however, represent only a small percentage of the 85 projects which were closed during financial year 1977.

Investment:

The Commission is aware of the sometimes long periods elapsing between the financing decisions and the performance of the contracts. The occasional slowness in this sector is due to various causes which have already been analysed.

N'Djamena (Fort Lamy) — Massaguet road

The reasons for the delays and the overruns may be summed up as follows:

Planning of the project

A specialist agency produced a study of the surfacing of the road, planned in 1964. This proposed a highway consisting of a 15 cm gravel base reinforced with cement and a double-layer surface, having regard to the foreseeable traffic and the materials available in the region. In view of such points as Chad's climate (very long, hot dry season and a short winter with torrential rains) a road of this type requires careful and regular maintenance which the Chad Government was unable to carry out for lack of funds. This lack of maintenance and the resulting rapid deterioration of the highway led us to finance, from the third EDF a reconditioning scheme based on repairs of the base course where needed and a single-layer surface.

Costs

The prices of imported products in Chad, a landlocked country more than 1 200 km from the nearest port, are far higher than elsewhere in Africa. Apart from this permanent disadvantage, a new and unexpected factor worsened matters while the project was in progress — the oil crisis, which led to an increase in costs (fuel, bitumen, transport, etc.) of up to 100 %.

Administrative problems

The Chad Government encountered major problems on the technical side and with personnel. At present, the Chad public works department is acquiring manpower and materials financed by the Community from the fourth EDF to organize a permanent service of maintenance for asphalt roads. Problems like those affecting the N'Djamena-Massaguet road project should — in principle — no longer occur.

The construction and equipping of two slaughterhouses, at Thiès and at St Louis

The administration commissioned the design study from the Rural Works Department and SERAS (Société d'exploitation des ressources au Sénégal) in order to keep all the funds for the work proper. The design records had to be revised several times before an invitation to tender could be issued. When the contracts were awarded, the slaughterhouses had to be actually redesigned to suit the tenders from specialized firms and to meet certain hygienic requirements if any of the meat was to be exported. These design changes were carried out by a German firm and took almost 18 months because (a) of the complicated nature of the matter and (b) agreement had to be reached with the Senegalese Government on certain very specialized technical aspects.

The total allotment of EDF funds did not cover the establishment of networks outside the slaughterhouse sites or the provision of minor items of slaughtering equipment. The municipalities of Thiès and St Louis were responsible for the outside networks and it was for the Senegalese Government to supply the addition minor items of equipment. Unfortunately, the completion of the work financed by the EDF fell in the middle of an economic crisis which affected all countries, in particular those in the Sahel which also had to cope with the drought.

For these reasons, and despite many approaches by the Commission Delegate to the administration and to the country's highest authorities with a view to expediting the start-up of the slaughterhouses this could not take place earlier. All the problems have now been solved and both slaughterhouses are operational.

The experimental introduction of meat not slaughtered locally was impossible as the St Louis slaughterhouse was not yet operational. Similarly, the study of the market for ice in Louga could not take place as the ice had to be carried along with the meat from St Louis. Finally, it was accepted in 1968 that an extended experiment to take ice to Djourbel was no longer justified as this town already had its own production and distribution unit. The factory to process the by-products was completed in 1969.

It is too soon to reach a decision on the economic viability of these two investments as the slaughterhouses have only just become operational. Furthermore, the special conditions laid down in the financing agreement have been met as far as possible, i.e. bearing in mind the actual timetable for carrying

out the project. Management of the slaughterhouses has been vested in SERAS; a survey of the market for ice at Djourbel has been carried out and a factory for processing the by-products built. The problem of ice production at Louga in conjunction with the carriage of meat from St Louis remains to be solved, as does the trial introduction of non-locally-slaughtered meat (from St Louis) on the Dakar market.

Construction of 50 seasonal schools in Mali

Completion of this project took a particularly long time because of the various changes made and difficulties encountered while it was in progress — in particular the demands of the Mali Government which made completion of the project contingent on the construction, out of project funds, of administrative offices for agriculture.

As regards compliance with the financing agreement, some activities were indeed changed during implementation: well sinking was cancelled, vehicles and schools were allocated to various administrative departments, some of the agricultural equipment was sold, the national administration for agricultural education and rural development at Bamako was reorganized and, finally, the sites of the schools were changed.

The first supplement to the financing agreement eliminated the well sinking originally planned and replaced it by the provision of additional agricultural equipment. However, it was agreed that the Mali Government would finance this work from its own budget.

The allocation of vehicles and schools to various administrative departments was the result of decisions made by the Mali authorities without consulting the Commission delegate, and although it was not in accordance with the financing agreement, it should be recognized that the Mali administration took this course in order to avoid the dispersal of the vehicles throughout the country and in order to economize on maintenance costs. The schools then obtained the (more suitable) mopeds and the administrative departments given the vehicles were all connected with rural development. Furthermore, the occupation of some schools by the community service is justified by the fact that rural development centres were set up in 1964 to recruit young people to carry out a two-year spell of community service which includes training in modern agricultural techniques.

Resale of part of the agricultural equipment by means of a long-term loan was preferred to free distribution to the school-leavers. The changes of site are due to the cursory preparation of the project by the Mali administration.

The Commission delegate repeatedly and insistently asked the administration for the loans to the pupils to be repaid into a special account and then allocated to the project to permit its completion. So far, these approaches have remained unsuccessful.

The financial execution of this project inevitably reflects the vagaries of a project spread over a period of 16 years. Nevertheless, the exchange loss of 12 664 EUA following devaluation of the Mali franc was unconnected with these delays as it affected an advance authorized one month before devaluation. Similarly, the Commission also considers that the Court's criticism concerning the payments made into the private account of the head of the Agricultural-engineering department who directed the project should be less black and white. On finding that payments to finance the imprest accounts had been made into the private account of the director, the Commission delegation reacted immediately and issued instructions for the payments to be made to the special account opened in the name of the head of the Agricultural-engineering department in his capacity as project director in accordance with the general rules.

Associated technical assistance

For reasons of economy, the EDF survey conducted as part of projects 3120.703.06.20 — 09.29 and 02.24 was added to other surveys which the branch of Ifop was to conduct in Africa in countries different from those selected by us although using Marcomer's technical facilities at the same time.

The difficulty of coordination and implementation on the spot explains the contradictions found in the execution of the contract, in particular the journeys made in February 1974, the month's delay in submitting the report (a delay which the Commission has accepted for this reason), and the signature of the contract subsequent to these things.

Article 3 of the study contract relating to the setting up of small and medium-sized enterprises in Senegal, concluded on 30 May 1969, stated that the contract would enter into force on the date of its notification with retroactive effect from 6 January 1969.

This provision in Article 3 was adopted for two main reasons:

- the urgency invoked by the Senegalese Government for the completion of the study in question; to this the Commission responded by asking the Société d'Études pour le Développement Économique et Social (SEDES) to send an expert to Senegal as soon as possible (the latter was not available until January and February 1969);
- the time required to draw up the official contract and for it to be approved by the Senegalese authorities, the company and the principal EDF authorizing officer, i.e. three months including the time required for dispatch of documents.

The administration had done all it could, prior to the departure of the expert, to ensure that SEDES accepted the terms of the final version of the contract. The delay in carrying out this project is due to an unintentional omission.

The consultants COTEI were commissioned in 1965 to carry out that first study on the water supply of N'Djamena (contract ET/233 — project 212.117.02). The same consultants were awarded study contract ET/1033 (project 3122.172.17.15) in 1972 to complete the assessment of the proposed project because they were completely familiar with the project. As stated in the assessment report, the consultants carried out the technical parts to our satisfaction but underestimated the costs of the work which largely exceeded those of project 3100.172.17.18. In accordance with the practice, whereby the consultants who carried out the studies are commissioned to supervise the work, COTEI was awarded a contract for the next phase in conjunction with another consultant agency, CRG, which has more staff to cope with special problems. This consortium, which is joint and severally liable, will ensure that the project is completed.

General technical cooperation

General technical cooperation programmes

The Commission agreed to finance the project to train farmers and skilled workers at the express request of the Rwanda Government. Since this project had several new features, it was not until the preliminary results were obtained that the Commission realized how difficult it would be to achieve the goals set.

Realizing the possible political implications of changing the form or procedures of the project, the Commission endeavoured to keep expenditure to a minimum after financing the training courses which had already commenced. This is the reason for the large sum (79 000 EUA) which was not used in the project.

Despite the Rwanda Government's request for the project to be extended the Commission succeeded — with difficulty — in winding up the project. The equipment, materials and vehicles purchased under the project were given to the Gitarama University of Radiophysics in September 1975 following the decision of the Ministry for National Education to convert Crafag into a centre for the retraining of teachers for practical work.

SECTION II — THE FOURTH EUROPEAN DEVELOPMENT FUND

Chapter 1 — General accounts

The Court of Auditor's comments call for a number of explanations:

The low rate of utilization of appropriations (10.4 %) for OCT—FODs is mainly due to constitutional changes, i.e. greater decentralization recently granted to some territories (Polynesia and New Caledonia). There has therefore been a delay in the submission of projects. In another instance (New Hebrides), the submission of projects to the Commission was delayed because the approval of two authorities with political responsibility for the decisions had to be sought.

The question of overruns was discussed in connection with the first three EDFs.

It is untrue to state, as regards authorizations for special loans and risk capital for the ACP and subsidies for the OCTs, that the revenue and expenditure account was drawn up on the basis of the statements in the financial accounts.

At the close of the 1977 financial year the final balance revealed five incorrect allocations, i.e. four commitment and authorization allocations for Stabex and a fifth entry concerning the decision to finance non-refundable aid to one ACP country amounting to 5 478 253 EUA. The first four entries (amounting to 5 138 253 EUA) were included under 'risk capital' instead of under 'Stabex' as a result of incorrect

coding when the account was opened; computer correction can only be made every three months, i.e. too late for the balance to be rectified. In the fifth case, the entry (340 000 EUA) was incorrectly put under the heading 'investment' instead of 'small projects'.

The Commission discovered these errors when it received the statement showing the balances of the accounts prior to drawing up the expenditure and revenue account. Since it was impossible to correct this balance, it decided to rectify this situation when drawing up the expenditure and revenue account, i.e. to ensure that the latter was an accurate account of the commitments and authorizations for the different categories of EDF operation. This explains why the Court of Auditors found a discrepancy between some figures in the balance of accounts and in the expenditure and revenue account. The rectifications were entered in the accounts in March 1978.

Chapter 2 — General comments on various types of aid

General technical cooperation

Training programmes

The small percentage of total commitments allocated to training expenditure is due to:

- (a) the fact that a number of ACP States have been slow in drawing up their multi-annual training programmes;
- (b) some new ACP States which are unfamiliar with the allocation procedures lost a great deal of time when the Lomé Convention first entered into effect;
- (c) the multi-annual programme covers the period from 1976 to 1980 and in 1977 it had only been running for 18 months, the first grants being awarded in July 1976;
- (d) other causes (late arrival of applications, incomplete applications, increasing difficulty in finding placements for trainees in Europe).

The training programmes also involve sending instructors and organizing seminars and other training projects. Problems in recruiting some instructors and slow-moving procedures are also one of the reasons for the slower rate of authorizations.

Under the Lomé Convention, the authorities of each ACP State are responsible for selecting the applications for grants to be submitted to the Commission. In several ACP States there is a grant committee (on which a Commission delegate sits in some countries) which selects the candidates to be proposed to the EDF or for other aids, in accordance with the legislation of the ACP State, on the basis of the students' academic achievements or of various criteria for trainees.

The conditions for the award of grants and their duration are laid down in the general rules governing the implementation of the study grant and training scheme programme drawn up by the Commission in conjunction with the Secretariat of the ACP States. A copy will be sent to the Court of Auditors.

Multi-annual training programmes or special training programmes requiring special grants have been approved for a number of ACP States.

When they examine the applications for grants, Commission departments and the delegate of the ACP State bear in mind the objective criteria laid down in the general rules and check that the training requested is compatible with the terms of the multi-annual training programme of the ACP State or of the specific training programme for which a grant is requested.

A distinction should be drawn between educational grants and training grants for which the selection criteria obviously differ.

Although the ACP State is responsible for submitting the applications because of the nature of certain types of studies, selection takes place in the examination of the applications and registration of students in educational establishments. An entrance examination is required for some types of training (e.g. statistical training). For some types of technical training the Commission prefers candidates for further training courses to be assessed and selected on the spot by the educational establishments.

Training at private institutes is available for a relatively limited number of grant-holders. Some provide training recognized as good. No diplomas are awarded at the end of professional training programmes.

There are still a number of problems regarding training in Europe bound up with the equivalence of diplomas and the changes required to enable English- and French-speaking students to follow courses in

Community countries other than those where equivalence is more likely to be recognized because historical ties already exist.

The role of Commission Delegates in implementing training programmes and in allocating grants will become more important after the completion of the ground work bringing to the attention of the ACP more of the opportunities for cooperation in the field of training offered by the Community under the Lomé Convention.

With regard to training requirements arising from projects financed by the EDF, it should be noted that a number of investment proposals provide for training as part of the actual project. Multiannual training programmes often make provision for 'linked' training, irrespective of any 'non-linked' training.

Moreover, special training programmes on, for example, health, the management and maintenance of ports and so on ensure that infrastructure investment will be well managed and maintained and will function properly.

The balance to the credit of the EDF relating to the former Italian management body was recently settled when the Italian Government refunded the monies due. Steps are being taken to recover the balance owed by the former Belgian management body.

There have been several attempts at assessment since the training programmes were introduced in 1961 but these have only been partially successful. A more thorough attempt is currently being made with the help of the Commission's Computing Centre. It should result in the grant programme back to 1961 being put on computer file some time in 1978, which should make management and assessment easier.

Actions to promote trade

The global commitments as at 31 December 1977 (10 847 562 EUA) represent the total amount of financing proposals adopted by that date (actions to be carried out under national target programmes and actions to be carried out using resources earmarked for regional cooperation). As these planned operations include actions spread over two or three years, it follows that the percentage of payment orders issued should not be based on global commitments but on the value of contracts and deals actually signed. The percentage is not therefore

25.3 % but 50.08 % which is not unusual, especially considering the fact that many of the payments are made in the ACP countries.

The Commission is concerned to see that actions to promote trade are better distributed between the different ACP countries. With the agreement of the beneficiary countries it therefore took steps to organize short visits to those ACP countries less well organized in this respect with the basic aim of identifying marketing difficulties and suggesting ways of overcoming them. As regards fairs and exhibitions particularly, the Commission has published a special 'Exhibitor's Guide' in French and English giving all the information required to prepare and arrange attendance by ACP States at international fairs and exhibitions. The guide, which is to be updated and republished shortly, has been distributed on a large scale to export promotion centres, chambers of commerce, professional associations, and so on. The guide has also been used as a basis for seminars for directors of ACP stands and their staff. Lastly, whenever the Commission has been able to send an official from the department concerned to the fairs and shows in the Community programme, he has spent his time providing the ACP exhibitors with suitable technical advice.

It sometimes happens that an ACP country which has asked for and obtained aid from the Commission to participate in a trade fair included in the Community programme is unable to attend at the last minute. To avoid the problems this causes, the Commission requires ACP countries to confirm their attendance in writing about a month before the exhibition opens.

Whenever possible, the Commission makes every effort to check *in situ* the construction of stands by contractors. In an attempt to facilitate and rationalize this check a form has been prepared for use by officials and staff from the settlement body. The document testifies to the services actually provided and as a check has to be signed after inspection by the contractor and by the Commission's representative.

Delegated technical supervision

The accounts for 1977 were adopted more swiftly than in previous years.

This was the result of new instructions given to the EAC by the Commission regarding the clearance of imprest accounts. Now the delays from the end of

1977 have been caught up and the Commission is hoping that the new system which has been in force since October will be fully effective. The supporting documents relating to the 1977 accounts are available to the Court of Auditors. Those documents the Court asked to inspect are being sent.

It should be noted that expenditure on technical assistance which was 3 253 800 EUA in 1976 reached 4 182 500 EUA in 1977, an increase of 30 %.

The amount of 66 730 EUA represents the taxes paid by the EAC on account of an expatriate official. A recovery procedure has been initiated with the tax authorities in the Federal Republic of Germany but this has so far borne no fruit.

Formerly the working funds of the administrators of imprest accounts was approximately equivalent to expenditure for one month. This amount proved to be inadequate and so had to be increased. Working capital is now equivalent to about two months' expenditure.

As a result of the instructions given by the Commission, it became possible to cut delays in clearing imprest accounts. The item 'expenditure to be regularized' will be reduced as far as possible in 1978. Compared with 1976, the increase in this item at the end of 1977 was lower than that in expenditure (29 % as against 47 %).

The amounts mistakenly charged in 1976 to the headquarters instead of to the EDF account were discovered when compiling the balance and were put right in 1977.

The 733.56 EUA claim has still not been settled. The EAC had kept this claim on its books in order to guard against the risk of the agricultural committee of Shaba not being able to settle the contracts of its staff. The proceeds will be paid into the country's reserve account.

The Commission is aware of the problems relating to staff and is trying to find a proper solution.

The representations made to the tax authorities in the Federal Republic of Germany to recover the taxes

mistakenly paid by the EAC on account of staff of German nationality have been unsuccessful in one case and successful in another. The Commission has even taken the case officially to the Council's ACP—FIN working party, but this was unable to achieve a result in line with the Commission's proposals.

In its memorandum on the renewal of the Lomé Convention, the Commission stated that in future it would prefer to finance delegations' expenditure out of the Commission's budget, in addition to the amounts earmarked for aid to associated countries. If accepted by the Member States, this proposal should solve the very real problems mentioned by the Court of Auditors.

Stabilization of export earnings (Stabex)

This statistics-based system, the product of difficult negotiations, presents certain problems in day-to-day management. The Court's observations refer to these problems and their consequences.

The Commission emphasizes the principles of administration which it has followed from the outset and which it regards as essential for the smooth functioning of the system:

- (a) Even with a much bigger staff complement, it would be impossible to examine the absolute accuracy of each statistical item. In the search for statistical truth there comes a time when one has to take a statistic, in its current degree of accuracy, as an unquestionable magnitude.
- (b) It would be a pure coincidence if the exports of a particular product from country A to country B equalled the imports of that same product into country B from country A. This could only happen in the theoretical case of perfectly planned countries where the statistical figures have more to do with plans than with reality. In all other cases, which can be very varied in nature, import and export figures are encountered which are different or even contradictory, despite considerable effort and investigation.

The Commission is convinced that, as things stand at the moment, only a pragmatic approach can guarantee the smooth functioning of this system,

regarded by all concerned as an exemplary effort in the field of relations between the industrialized and the developing countries.

The Commission is also convinced that a simple accounting exercise could show that the expenditure needed to make the statistics as accurate as they could be would have no economic justification. The law of diminishing returns applies here too.

On the basis of these principles the Commission makes the following observations:

These estimates reflect the sum total of experience acquired on the subject and are often cross-checked with information from commercial agents, international bodies responsible for trade in the product concerned and the Member States' Statistical Offices.

In addition, on several occasions when the Commission has asked for further particulars concerning specific import figures, corrections have been made by the Member States' Statistical Offices.

The products on the list in Article 17 (1) have been transposed in terms of the NIMEXE system by tariff experts within the Commission. The EEC cannot influence either the choice or the breakdown of the tariff systems adopted by the ACP States; furthermore, the differences are in fact minimal, and experience of specific cases shows that the ACP figures are 'pure'. An ACP State which only produces groundnuts will not export any soya-bean oil, theoretically included in the same subheading in the tariff code which it has adopted.

The determination of the cif/fob factor is not based on 'fictitious values' nor is it done 'in a happy-go-lucky manner'. Year by year, it is done on the basis of a comparison of the real unit values of exports and imports, including the year of implementation. This method was proposed by Statistical Office experts who had opposed a different approach based on the information needed to establish payment balances.

From the outset, the administering department was in a difficult position over this cif/fob factor. Apart from certain clear cases, prudent administration was called for here. The Commission has endeavoured to discharge its responsibilities to the best of its ability. The Commission arranged for the study mentioned by the Court - with the ACP Group's agreement - in order to improve its knowledge on the matter. At the

Commission's request, the consultancy firms used two methods in this study:

- (i) the method usually followed, i.e. a comparison of the unit values of exports and imports expressed in a single currency (the dollar), and
- (ii) the method of interviewing shipowners and insurers whenever the first method did not produce satisfactory results ⁽¹⁾.

However, in view of the complexity of the market and the discretion observed by the shipowners, it is not an easy task to determine the real cost of freight and insurance. Nevertheless, in the main the studies have produced satisfactory results and in future the coefficients will be used on a better-founded basis.

This study was entrusted to private consultancy firms in order to take account of the need for the agreement of the ACP countries; it was therefore appropriate to have it carried out by private firms rather than by an EEC department.

The Office has received copies of these studies and all the figures used.

The Commission fails to see the need for cross-checking Member State by Member State in cases where, for the Community as a whole, the total import figures match the ACP export figures. There are many such cases ⁽²⁾. In all other cases where there are unacceptable discrepancies between import figures and export figures, cross-checking consists of a comparison of the figures Member State by Member State to pinpoint the sources of the discrepancy. In most cases the discrepancies are due to re-exportation to third countries.

As cross-checking on the basis of Community figures is perfectly adequate in most cases, there would be no justification for applying cif/fob coefficients Member State by Member State. Moreover, it should be emphasized that the distance factor plays an almost negligible role among the components of the freight

rates, i.e. the specific value of the goods, the weight-volume ratio, the nature of the goods, etc.

As has already been said, where the reliability of the ACP figures may be in doubt, the Commission cross-checks these figures not only with the import figures but also with publications in the specialist press, the statistical bulletins of the market organizations, and information from delegates, in other words all the information available at a particular time. Since 1975 nearly all the ACP States have been visited by Commission officials. In 1977 a mission was sent to Mali to examine certificates of origin in a case of doubt.

Cross-checking, after careful examination of the ACP figures by the department, takes the form of negotiations where considerable discrepancies are found. A measure of flexibility is essential in order to secure an acceptable outcome from such negotiations. In such cases an optimum solution has to be found which, in the light of considerations of time-saving and financial resources, is satisfactory both for the Commission and for the ACP State.

Furthermore, the Commission is willing to draw up cross-checking reports for all cases in which, for the implementation years 1978 and 1979, there are grounds for cross-checking, i.e. when the transfer requests in question concern situations for which the Commission does not yet have cross-checked figures and for cases in which the bases for cross-checking are not Community import statistics.

The Commission emphasizes that requests are examined in the light of Article 19 (4) in all cases. The fact that, in most cases, the provisions of this paragraph have not been applied does not mean that no examination has taken place but rather than there was no justification for applying them. Where a reduction has been made in the basis for a transfer, the delegations have made valid contributions in accordance with their capacities.

This point concerns the export policy of the ACP States and the import policy of the agents in the Member States. The Commission does not feel entitled to intervene in trade which is carried out, as a matter of principle, on a free market.

This point touches on an important problem which, in the present state of affairs, concerns trade promotion. In a broader framework, it underpins the Commission's proposal concerning a mandatory procedure for periodic consultations between the EEC and the ACP States with the participation of the economic and social circles concerned. This idea does not seem to have been favourably received by the ACP States.

⁽¹⁾ Moreover, a coefficient lower than unity does not mean that goods delivered cif at Hamburg would be worth less than at fob shipment from the ACP State. Arithmetically, this result could be obtained, correctly, in a case in which — in a period of substantial price fluctuations — the unit statistical values do not refer to the same deliveries because of a temporary discrepancy in the notification of unit values of imports, where definitive importation from a warehouse is effected, for example, 18 months after the arrival of the goods in the port.

⁽²⁾ Of course, this is no obstacle to the monitoring of intra-Community trade in a particular product. There are cases where ACP exports to a Member State exceed the latter's imports whereas the converse is true for the other Member States. This state of affairs is attributable to agents in the first Member State re-exporting part of their imports to other Member States from warehouses. In the circumstances, the goods retain the origin of the ACP State on final importation.

The Commission considers that the appointment of a liaison officer for the system is the responsibility of the ACP State concerned. Furthermore, relations between the liaison officers operating at present and the Commission are entirely satisfactory.

The figures used were the only valid figures known at the time. Clearly, the principle of using the most recent figures at the time of the proposal, as regards rates of exchange, etc., is the only practical method. It should be added that the department makes use of these official figures, e.g. those of the IMF, without any change, since they have been established by specialist authorities more skilled at this task than the department responsible for administering the Stabex system.

The Court of Auditors wants retrospective corrections to be made in all cases where exchange rates (or other values) have been corrected after the transfer decision has been taken and the funds transferred. In the Commission's opinion, this attitude is neither realistic nor practicable and, in most cases, would amount to an infringement of the Lomé Convention.

It may happen that the authorities concerned correct the rates several times or after a period of a few years. This would entail a series of different amounts for the same transfer or the changing of an amount of a transfer decided some years before. It goes without saying that the making of additional payments and/or reimbursements, continually delayed by a few years, would not only have administrative and accounting disadvantages and diminish the Commission's credibility, but also cause the ACP States difficulties where the 'final' amount is less than the amount transferred.

These disadvantages would appear to be out of all proportion to any advantages that there might be in implementing the Court's proposals on this matter.

If the Commission questioned amounts already decided on and paid over, this would open the door to 'amended' requests by the ACP States. The department has had difficulty in refusing such approaches in the past.

From the point of view of legal and budgetary security it is essential that a financial year should be closed at some specific time. This idea is expressed in Article 18 (3) which stipulates that 'Whatever balance remains at the end of each year of the first four years

of the application of this Convention shall be carried forward automatically to the following year'. In practice this means for example that the instalment intended to cover losses of export earnings for the year 1978 lapses on 1 January 1978.

The outcome of using the most recent data is that, in all the cases mentioned in the first paragraph of the Court's report, the exchange rates have been corrected in the transfers relating to the years 1976 and 1977. The same applies to transfers to the Republic of Jibuti.

Industrial cooperation

Since the Court of Auditors has decided to fundamentally redraft and condense the text of its observations, the Commission proposes to replace the original text of its reply by the following:

The Commission is not in a position to pass judgment on the observations made by the Court of Auditors concerning the financial administration of the Centre for Industrial Development in 1977; it merely makes the following observations. As the Centre is a joint institution subsidized by the EDF, the Council of Ministers of the Community has given the Court of Auditors direct responsibility for the control of revenue and expenditure for the European element, whereas the ACP States have given the responsibility for this control, in conjunction with the former, to a person designated by them. As the Commission sponsors the Centre through an EDF subsidy it could no doubt have added its own inspection arrangements. However, it was thought unnecessary to cover the same ground as the joint control arrangements mentioned above.

The Commission hopes that all the replies and explanations given concerning the various administrative and financial accounts will serve to mitigate the observations made by the Court of Auditors. The latter can rest assured that adequate steps have been taken in the course of the financial year 1978 in order to make good these deficiencies for the future.

A reply has been given, point by point, to the observations made about the projects and agreements revealing certain anomalies (costs in excess of estimates, value of the results obtained in some cases, retrospective nature of certain study contracts).

ANNEX V**THE COURT OF JUSTICE****Replies to the comments of the
Court of Auditors concerning the financial year 1977**

The Court of Justice has no fundamental observations to make. It has taken good note of the suggestion in paragraph 9.24 of the Audit Report that the institutions consider jointly the various comments made. It proposes to make the problems of buying and use of equipment the particular object of consultations between the interested services and will be having discussions with the other administrations with a view towards achieving a greater uniformity in the execution of budgetary transactions.

The Court of Justice underlines that certain parts of the Financial Regulation — though followed in spirit and in the letter — do present practical difficulties to an institution of its size, particularly in respect of the need to provide for a separation of duties and operations from amongst its limited staff numbers.

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